

# Pension Schemes Bill

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[AS AMENDED IN PUBLIC BILL COMMITTEE]

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A  
**B I L L**

[AS AMENDED IN PUBLIC BILL COMMITTEE]

TO

Make provision about pension schemes, including provision designed to encourage arrangements that offer people different levels of certainty in retirement or that involve different ways of sharing or pooling risk.

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

**PART 1**

CATEGORIES OF PENSION SCHEME

**1 Introduction**

- (1) This Part defines some key expressions used in pensions legislation—
- (a) defined benefits scheme - see section 2; 5
  - (b) shared risk scheme (sometimes known as “defined ambition”) - see section 3;
  - (c) defined contributions scheme - see section 4.
- (2) The definitions—
- (a) do not apply in any public service pensions legislation; 10
  - (b) apply in other legislation only where legislation expressly provides for the definitions to apply.

*Categories of scheme*

**2 Defined benefits scheme** 15

- A pension scheme is a “defined benefits scheme” if—
- (a) the scheme provides for all members to be paid retirement income beginning at normal pension age and continuing for life,

- 
- (b) there is a full pensions promise in relation to the retirement income and any other retirement benefits that may be provided to members, and
- (c) the normal pension age in relation to the retirement income and any other retirement benefits that may be provided to members is fixed.
- 3 Shared risk scheme (sometimes known as “defined ambition”)** 5
- A pension scheme is a “shared risk scheme” if –
- (a) there is a pensions promise in relation to at least some of the retirement benefits that may be provided to each member, but
- (b) the scheme is not a defined benefits scheme.
- 4 Defined contributions scheme** 10
- A pension scheme is a “defined contributions scheme” if there is no pensions promise in relation to any of the retirement benefits that may be provided to the members.
- 5 Meaning of “pensions promise” etc**
- (1) For the purposes of section 2 there is a “full pensions promise” in relation to a retirement benefit if – 15
- (a) the scheme provides for there to be a promise, at all times before the benefit comes into payment, about the level of the benefit, and
- (b) the level of the benefit is to be determined wholly by reference to that promise in all circumstances. 20
- (2) For the purposes of sections 3 and 4 there is a “pensions promise” in relation to a retirement benefit if the scheme provides for there to be a promise, at a time before the benefit comes into payment, about the level of the benefit.
- (3) A reference in this section to a promise about the level of a retirement benefit – 25
- (a) includes a promise about factors, other than longevity, that will be used to calculate the level of the benefit,
- (b) does not include a promise if, or to the extent that, it consists merely of a promise that the level of the benefit will be calculated by reference to an amount available for its provision, and
- (c) in the case of a benefit the level of which depends on the amount available for the provision of benefits to or in respect of the member and one or more other members collectively, does not include a promise about the factors used to determine what proportion of that amount is available for the provision of the particular benefit. 30
- (4) A scheme provides for there to be a promise if the scheme – 35
- (a) sets out the promise, or
- (b) requires the promise to be obtained from a third party.
- (5) A scheme also provides for there to be a promise for the purposes of subsection (2) if the scheme provides for the member to be given – 40
- (a) the option of a promise from the scheme, or
- (b) the option of requiring a promise to be obtained from a third party, (whether or not the option is subject to conditions).



- (6) A benefit does not fail the test in subsection (1)(b) just because the scheme confers a discretion to vary the benefit so long as the discretion –
- (a) is capable of being used only for reasons related to a member’s individual ~~circumstances~~circumstances and meets any other requirements that may be specified in regulations, or
  - (b) is of a description specified in regulations.
- (7) When working out for the purposes of sections 2 to 4 what benefits “may be provided” to a member, take into account –
- (a) benefits that may be provided only if the member has been a member for a certain length of time, and
  - (b) any other benefits that, at a future time, are benefits that may be provided to the member.

## 6 Treatment of a scheme as two or more separate schemes

- (1) Regulations must provide for a pension scheme that does not fit within any of the categories to be treated, for the purposes of this Part and any other specified legislation, as if it were two or more separate schemes each of which then fits within one of the categories.
- (2) Regulations may provide for other circumstances in which a scheme is to be treated, for the purposes of this Part and any other specified legislation, as two or more separate schemes each of which fits within one of the categories.
- (3) In this section “category” means a category of scheme defined by section 2, 3 or 4.

### *Interpretation of Part 1 and amendments*

## 7 Interpretation of Part 1

In this Part –

“fixed”, in respect of normal pension age in relation to a benefit, means incapable of changing except by an amendment to the scheme rules;

“full pensions promise” has the meaning given by section 5;

“legislation” means –

- (a) an Act, or
- (b) subordinate legislation as defined by section 21(1) of the Interpretation Act 1978;

“level”, in relation to a retirement benefit, means –

- (a) in the case of retirement income, the rate of that income, and
- (b) in the case of a retirement lump sum, the amount of that lump sum;

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

- (a) the earliest age at which, or earliest occasion on which, the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill health or otherwise), or
- (b) if there is no such age or occasion, normal minimum pension age as defined by section 279(1) of the Finance Act 2004;

“pensions promise” has the meaning given by section 5;

“pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993;

“public service pensions legislation” means –

- (a) the Public Service Pensions Act 2013,
- (b) the Superannuation Act 1972, and
- (c) any other provision by or under which a public service pension scheme is established;

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“public service pension scheme” has the meaning given by section 1(1) of the Pension Schemes Act 1993;

“retirement benefit”, in relation to a member of a pension scheme, means –

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- (a) retirement income, or
- (b) a retirement lump sum;

“retirement income”, in relation to a member of a pension scheme, means a pension or annuity payable to the member on reaching normal pension age;

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“retirement lump sum”, in relation to a member of a pension scheme, means a lump sum payable to the member on reaching normal pension age or available for the provision of other retirement benefits for the member on or after reaching normal pension age.

## 8 ~~Amendments to do with Part 1~~

### ~~Schedule 1—~~

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- ~~(a) contains amendments that use expressions defined by this Part, and~~
- ~~(b) replaces references to “money purchase scheme” so as to limit the number of different ways of categorising pension schemes.~~

### ~~PART 2~~

#### ~~GENERAL CHANGES TO LEGISLATION ABOUT PENSION SCHEMES~~

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#### ~~Administration and governance~~

## 9 ~~Pensions promise obtained from third party~~

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~~(1) Regulations may provide that the trustees or managers of a defined benefits scheme or a shared risk scheme must not obtain a pensions promise from a third party unless conditions specified in the regulations are met.~~

~~(2) Regulations under this section—~~

- ~~(a) may provide for a specified provision of the regulations to override a provision of a scheme to the extent that there is a conflict;~~
- ~~(b) may confer functions on a specified person in connection with enforcement of the regulations;~~
- ~~(c) may provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a person who fails to comply with the regulations.~~

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~~(3) In this section—~~

~~“defined benefits scheme” has the meaning given by section 2;~~

~~“pensions promise” has the meaning given by section 5;~~

~~“shared risk scheme” has the meaning given by section 3.~~

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- (4) ~~In section 34(7) of the Pensions Act 1995 (power of investment and delegation overrides other legislation etc), for the words from “other than” substitute “other than an enactment contained in, or made under—~~
- ~~(a) this Part,~~
  - ~~(b) the Pension Schemes Act 1993, or~~
  - ~~(c) section 9 of the Pension Schemes Act 2014.”~~

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## **10 Disclosure of information about schemes**

- (1) ~~Section 113 of the Pension Schemes Act 1993 (disclosure of information about schemes to members etc) is amended as follows:~~
- (2) ~~In subsection (1)—~~
- ~~(a) in the opening words, for “the persons mentioned in subsection (2)” substitute “persons of prescribed descriptions”;~~
  - ~~(b) in paragraph (ca), omit “to the member” and “by him”.~~
- (3) ~~Omit subsection (2).~~
- (4) ~~Before subsection (3) insert—~~
- ~~“(2A) In complying with requirements specified in the regulations, a person must have regard to any guidance prepared from time to time by the Secretary of State.”~~
- (5) ~~For subsection (4) substitute—~~
- ~~“(4) Where the regulations specify requirements to be complied with in the case of an occupational pension scheme with respect to keeping recognised trade unions informed, the regulations must make provision for referring to an employment tribunal any question whether an organisation is a recognised trade union.~~
  - ~~(4A) For the purposes of subsection (4) a trade union is a recognised trade union in relation to an occupational pension scheme if it is an independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.”~~
- (6) ~~In subsection (5), for “some or all of the persons mentioned in subsection (2)” substitute “persons of a prescribed description”.~~
- (7) ~~Omit paragraph 17 of Schedule 12 to the Pensions Act 2004, which is no longer needed given subsection (3).~~

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### *Early leavers*

## **11 Extension of preservation of benefit under occupational pension schemes**

- (1) ~~Part 4 of the Pension Schemes Act 1993 (protection for early leavers) is amended as follows:~~
- (2) ~~In section 71 (basic principle as to short service benefit), in subsection (1), for paragraph (aa) (but not the “or” at the end) substitute—~~
- ~~“(aa) he has at least 30 days’ qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be non-salary related benefit.”~~

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- (3) ~~In section 70 (interpretation of Chapter 1: preservation requirements), in subsection (1) —~~
- (a) ~~after the definition of “relevant employment” insert —~~
- ~~““benefits”, in relation to a member of a scheme, means —~~
- (a) ~~retirement benefit for the member at normal pension age, or~~
- (b) ~~benefit for the member’s wife, husband, civil partner, widow, widower, surviving civil partner or dependants or others on the member’s attaining normal pension age or the member’s later death, or~~
- (c) ~~both such descriptions of benefit;”;~~
- (b) ~~in the definition of “long service benefit” omit the words from “and in this definition “benefits” means” to the end of the definition;~~
- (c) ~~at the end insert —~~
- ~~““non-salary related benefit”, in relation to a scheme and a member of it, means a benefit the rate or amount of which is calculated otherwise than by reference to the salary of the member.”~~
- (4) ~~In section 71, for subsections (7) to (11) substitute —~~
- ~~“(7) In subsection (1), “2 years’ qualifying service” or (as the case may be) “30 days’ qualifying service” means a period of service of the relevant duration in which the member was at all times employed either —~~
- (a) ~~in pensionable service under the scheme, or~~
- (b) ~~in service in employment which was contracted out by reference to the scheme, or~~
- (c) ~~in linked qualifying service under another scheme.~~
- (8) ~~For the purposes of subsection (7) —~~
- (a) ~~a period of service may consist of a single period or two or more periods, continuous or discontinuous;~~
- (b) ~~no regard is to be had to whether or not the service was of the same description throughout the period of service.~~
- (9) ~~A period of service previously terminated is not to count towards the 2 years’ or (as the case may be) 30 days’ qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.~~
- (10) ~~Subsection (1)(aa) does not apply in relation to a person’s membership of a scheme if —~~
- (a) ~~in a case where the benefit would necessarily all be money purchase benefit, any period of relevant service began before the day on which section 36 of the Pensions Act 2014 came into force (whether or not it also ended before that date);~~
- (b) ~~in any other case, any period of relevant service began before the day on which section 11 of the Pension Schemes Act 2014 came into force (whether or not it also ended before that date).~~
- ~~“Relevant service” means service that counts towards the 30 days’ qualifying service for the purposes of subsection (1)(aa).”~~

<del>(5) In section 36 of the Pensions Act 2014, omit subsections (2) and (3) which are no longer needed given the earlier provisions of this section.</del>	
<b>12 Revaluation of accrued benefits</b>	
<del>Schedule 2 contains amendments about the revaluation of benefits.</del>	5
<b>13 Transfer values</b>	
<del>Schedule 3 contains amendments about transfer values.</del>	
<b>14 Restriction on transfers out of public service defined benefits schemes</b>	10
<del>(1) The Pension Schemes Act 1993 is amended as follows.</del>	
<del>(2) In section 93 (scope of Chapter 4 of Part 4: transfer values for early leavers), after subsection (1B) insert—</del>	
<del>“(1C) The Treasury may by regulations apply this Chapter with prescribed modifications in relation to a person who is a member of a public service defined benefits scheme to prevent the person from taking a right to a cash equivalent in such a way that its value is—</del>	15
<del>(a) transferred to a defined contributions scheme;</del>	
<del>(b) converted into a right to collective benefits.”</del>	
<del>(3) In section 93, after subsection (2) insert—</del>	
<del>“(3) In subsection (1C)—</del>	20
<del>“collective benefit” has the meaning given by section 19 of the Pension Schemes Act 2014;</del>	
<del>“defined contributions scheme” has the meaning given by section 37 of the Public Service Pensions Act 2013;</del>	
<del>“public service defined benefits scheme” means a public service pension scheme that is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013.”</del>	25
<del>(4) In section 186 (Parliamentary control of orders and regulations), in subsection (1) (negative procedure), after “Secretary of State” insert “or the Treasury”.</del>	30
<i>Indexation</i>	
<b>15 Regulatory own fund schemes exempt from indexation</b>	
<del>(1) Section 51 of the Pensions Act 1995 (annual increase in rate of pension) is amended as follows.</del>	35
<del>(2) In subsection (1)(a)(ii) (scheme based exemption) after “public service pension scheme” insert “or a regulatory own fund scheme (see subsection (9))”.</del>	
<del>(3) After subsection (8) insert—</del>	
<del>“(9) In subsection (1)(a)(ii) “regulatory own fund scheme” means a scheme in respect of which Article 17 of Council Directive 2003/41/EC of 3</del>	40

~~June 2003 on the activities and supervision of institutions for occupational retirement provision applies.~~

- (10) ~~Regulations may amend subsection (9) to replace the reference to the Article mentioned there with a reference to any provision of an EU instrument that replaces it (with or without changes)."~~

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## **16 Power to create other exemptions from indexation**

- (1) ~~In section 51 of the Pensions Act 1995 (annual increase in rate of pension), after subsection (5) insert—~~

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~~“(5A) Regulations may provide that this section does not apply to a pension, or part of a pension, of a specified description.~~

~~(5B) But regulations under subsection (5A) may not be made in respect of—~~

- ~~(a) a pension, or any part of a pension, under a defined benefits scheme,~~  
~~(b) a pension, or any part of a pension, which came into payment before the day on which the regulations come into force, or~~  
~~(c) a pension, or any part of a pension, which is attributable to pensionable service before the day on which the regulations come into force.~~

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~~(5C) Regulations under subsection (5A) may amend this Part.”~~

- (2) ~~In section 175(2) of that Act (statutory instruments subject to affirmative procedure), before paragraph (a) insert—~~

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~~“(za) section 51(5A).”~~

### *Independent trustees*

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## **17 Removal of requirement to maintain register of independent trustees**

- (1) ~~Section 23 of the Pensions Act 1995 (power to appoint an independent trustee of an occupational pension scheme on the insolvency of the person who is the employer in relation to the scheme etc) is amended as follows.~~

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- (2) ~~In subsection (1), omit paragraph (b) (requirement for the trustee to be registered in a register maintained by the Pensions Regulator) and the “and” before it.~~

- (3) ~~Omit subsections (4) to (6) (regulations to provide for there to be a register of independent trustees).~~

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### *Rules about modification of schemes*

## **18 Rules about modification of schemes**

- (1) ~~The Pensions Act 1995 is amended as follows.~~

- (2) ~~In section 67A (the subsisting rights provisions: interpretation), in subsection (3) (meaning of “protected modification”), after paragraph (a) insert—~~

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~~“(aa) on taking effect would or might result in any subsisting right of a member of the scheme which is a right to benefits in respect of~~

~~which there is a pensions promise becoming, or being replaced with, a right to benefits under the scheme rules in respect of which there is no pensions promise,”.~~

~~(3) In subsection (5)(a) of that section, after “paragraph (a)” insert “, (aa)”.~~

~~(4) In section 124 (interpretation), in subsection (1), at the appropriate place insert—~~

~~““pensions promise” has the meaning given by section 5 of the Pension Schemes Act 2014;”.~~

### PART 3

#### COLLECTIVE BENEFITS

##### *Introduction to collective benefits*

#### 19 Introduction and definition

- (1) This Part is about pension schemes under which at least some of the benefits that may be provided are collective benefits.
- (2) A benefit is a “collective benefit” if in all circumstances the rate or amount of the benefit depends entirely on—
  - (a) the amount available for the provision of benefits to or in respect of the member and one or more other members collectively, and
  - (b) factors used to determine what proportion of that amount is available for the provision of the particular benefit.
- (3) But a benefit is not a collective benefit if—
  - (a) it is a money purchase benefit, or
  - (b) it is of a description specified in regulations.

#### 20 Duty to set targets for collective benefits

- (1) Regulations may require the trustees or managers of a pension scheme to set targets in relation to any collective benefits that may be provided by the scheme.
- (2) The regulations may, in particular—
  - (a) impose requirements about the way that targets are expressed;
  - (b) impose requirements about the recording or publication of targets;
  - (c) require the trustees or managers to set initial targets at a level which ensures that the probability of meeting the targets ~~is equal to or higher than falls within~~ a ~~level of probability range~~ specified in the regulations;
  - (d) require the trustees or managers to obtain a certificate from an actuary certifying that, in the opinion of the actuary, the initial targets have been set at a level that complies with regulations under paragraph (c).
- (3) Regulations made in reliance on subsection (2)(d) may, in particular—
  - (a) require the trustees or managers to obtain the certificate from an actuary who has specified qualifications or meets other specified requirements;

- (b) make provision about the content of the certificate;
  - (c) set out matters to which the actuary must have regard;
  - (d) require the trustees or managers to provide a copy of the actuary’s certificate to a specified person.
- (4) In this section “target” means a target, relating to the rate or amount of a benefit, that is unenforceable. 5

### *Contributions*

## **21 Payment schedule**

- (1) Regulations may require the trustees or managers of a pension scheme to prepare a payment schedule showing – 10
- (a) the contributions payable to the scheme in respect of any collective benefits under the scheme, and
  - (b) the dates on which the contributions are due.
- (2) The regulations may require the payment schedule to include other amounts payable to the scheme and the dates on which they are due. 15
- (3) The regulations may, in particular –
- (a) make further provision about the content of the payment schedule;
  - (b) make provision about revising the payment schedule.
- (4) The regulations may, in particular, make provision corresponding or similar to any provision made by section 87 of the Pensions Act 1995 (payment schedules for certain kinds of scheme). 20

## **22 Overdue contributions and other payments**

- (1) Regulations –
- (a) may require the trustees or managers of a pension scheme to notify a specified person of any relevant payments that are overdue;
  - (b) may make provision for the recovery of those payments.
- (2) In subsection (1) “relevant payment” means a payment shown in a payment schedule required by regulations under section ~~24~~10. 25
- (3) ~~The regulations~~ Regulations under subsection (1) may, in particular, make provision corresponding or similar to any provision made by section 88 of the Pensions Act 1995 (failure to comply with payment schedule for certain kinds of scheme).

### *Investment*

## **23 Statement of investment strategy**

- (1) Regulations may require the trustees or managers of a pension scheme to prepare a statement of their investment strategy in connection with any collective benefit investments. 35
- (2) The regulations may, in particular, make provision about –
- (a) the content of the statement;



- (b) reviewing and revising the statement.
- (3) The regulations may, in particular –
  - (a) make provision corresponding or similar to any provision made by section 35 of the Pensions Act 1995 (investment principles for occupational trust-based schemes);
  - (b) disapply that section in relation to any investments to which the regulations apply.

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## **24 Choosing investments**

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## **25 Investment performance reports**

- (1) Regulations may require the trustees or managers of a pension scheme to obtain reports about the performance of any collective benefit investments.
- (2) The regulations may, in particular, make provision about –
  - (a) the content of reports;
  - (b) how often reports must be obtained;
  - (c) the person from whom reports must be obtained.

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## **26 Investment powers**

- (1) Regulations may make provision about –
  - (a) the investment powers of the trustees or managers of a pension scheme in connection with collective benefit investments;
  - (b) their powers to delegate decisions in connection with collective benefit investments (including provision as to liability for delegated decisions);
  - (c) ~~Regulations may impose requirements on the trustees or managers of a pension scheme, or any other person, about the use of powers of investment person to whom they have delegated decisions~~ in connection with collective benefit investments.
- (2) The regulations may, in particular –
  - (a) make provision corresponding or similar to any provision made by section 34 or 36 of the Pensions Act 1995 (~~choosing powers of investment and delegation and choice of~~ investments for occupational trust-based schemes);
  - (b) disapply ~~that section those sections~~ in relation to any investments to which the regulations apply collective benefit investments.

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## **27 Investment performance reports**

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## **28 Restriction on borrowing by trustees or managers**

- (1) Regulations may prohibit a person to whom this section applies from borrowing money or acting as a guarantor except in specified cases.
- (2) This section applies to –
  - (a) ~~Regulations may require~~ the trustees or managers of a pension scheme to obtain reports about under which any of the performance of any

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	<u>benefits that may be provided are collective benefit investments.</u>	
	(b) <u>any person to whom they have delegated decisions about collective benefit investments.</u>	5
<b>29</b>	<b><u>Investment powers: duty of care</u></b>	
(1)	<u>Regulations may make provision to prevent any instrument or agreement from excluding or restricting any liability of the trustees or managers of a pension scheme, or any person to whom they have delegated decisions, in respect of the performance of investment functions involving collective benefit investments.</u>	10
(2)	The regulations may, in particular, <del>make provision about</del> –	
	(a) <del>the content of reports;</del>	
	(b) <del>how often reports must be obtained;</del>	
	(c) <del>the person from whom reports must be obtained.</del>	15
	(d) <u>make provision corresponding or similar to any provision made by section 33 of the Pensions Act 1995 (duty of care in respect of investment powers for occupational trust-based schemes);</u>	
	(e) <u>disapply that section in relation to collective benefit investments.</u>	
	<i>Valuation</i>	20
<b>30</b>	<b>Valuation reports</b>	
(1)	Regulations may require the trustees or managers of a pension scheme to obtain a report prepared by an actuary –	
	(a) valuing the assets held by the scheme for the purposes of providing collective benefits, and	25
	(b) assessing the probability of the scheme meeting the targets in relation to those benefits.	
(2)	A report required by regulations under this section is referred to in this Part as a “valuation report”.	
(3)	The regulations may, in particular –	30
	(a) require the trustees or managers to obtain the report from an actuary who has specified qualifications or meets other specified requirements;	
	(b) require the actuary to certify whether, in the opinion of the actuary, the probability of the scheme meeting the targets <u>falls within the required range or is equal to above</u> or below <del>higher or lower than the required probability</del> ;	35
	(c) make further provision about the content of valuation reports;	
	(d) make provision about how often valuation reports must be obtained.	
<b>31</b>	<b>Valuation process</b>	
(1)	Regulations may make provision about the methods or assumptions to be used by an actuary valuing assets, or assessing the probability of a scheme meeting a target in relation to a collective benefit, for the purposes of a valuation report.	40
	<del>(2) The regulations may, in particular –</del>	
	(3) <u>Regulations under subsection (1) may, in particular –</u>	45

- (a) require the trustees or managers of the scheme to determine the methods or assumptions to be used by the actuary;
- (b) set out matters that the trustees or managers must take into account, or principles they must follow, in determining methods or assumptions.

(4) Regulations may –

- (a) make provision about the assets to be taken into account for the purposes of a valuation report;
- (b) require the value attributed to the assets to be reduced by the amount of any liabilities in respect of administrative expenses or other specified matters.

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- (5) ~~The regulations~~ Regulations may require an actuary preparing a valuation report to certify that, in the opinion of the actuary, any ~~methods or assumptions determined in accordance with the specified requirements imposed by~~ regulations under this section have been followed.

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(6) Regulations –

- (a) may require an actuary to have regard to guidance issued from time to time by a specified person when preparing a valuation report;
- (b) may impose other requirements on an actuary when preparing a valuation report.

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*Dealing with deficits and surpluses*

**32 Policy for dealing with a deficit or surplus**

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- (1) Regulations may require the trustees or managers of a pension scheme –
- (a) to have a policy for dealing with a deficit or surplus in respect of any collective benefits that may be provided by the scheme, and
  - (b) to follow that policy if a valuation report shows a deficit or surplus.

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(2) For the purposes of this Part –

- (a) there is a “deficit” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is ~~lower than~~ below the required probability range, and
- (b) there is a “surplus” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is ~~higher than~~ above the required probability range.

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(3) Regulations under subsection (1)(a) may, in particular –

- (a) require the trustees or managers to consult about the policy;
- (b) make provision about the content of the policy;
- (c) make provision about reviewing and revising the policy.

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(4) The regulations may, in particular, require the policy –

- (a) to be formulated with a view to achieving results described in the regulations within a period or periods described in the regulations;
- (b) to contain provision for a deficit or surplus to be dealt with in one or more of a range of ways described in the regulations;
- (c) to contain an explanation of the possible effect of the policy on members in different circumstances.

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**33 Deficits attributable to an offence or the imposition of a levy**

- (1) Regulations may provide for an amount to be treated as a debt due from an employer to the trustees or managers of a pension scheme that provides collective benefits in cases where there is a deficit that is attributable to a specified offence or the imposition of a specified levy. 5
- (2) The regulations may, in particular, make provision corresponding or similar to any provision made by section 75 of the Pensions Act 1995 (amounts deemed to be debts due from an employer).
- (3) For the purposes of this section – 10  
     “employer” has the meaning given by section 318 of the Pensions Act 2004;  
     “deficit” has the meaning given by the regulations (and the meaning need not be the same as in section 2819).

**34 Payment of amounts out of collective benefit funds** 15

- (1) Regulations must prohibit the making of payments out of funds held for the purposes of providing collective benefits except for –  
     (a) payments made for the purpose of providing those benefits, or  
     (b) other specified payments. 20
- (2) The regulations may, in particular, make provision corresponding or similar to any provision made by section 37 of the Pensions Act 1995 (payment of surplus to employer in the case of an occupational trust-based scheme).

*Transfer values***35 Transfer value: policy for calculating cash equivalent of benefits** 25

- (1) Regulations may require the trustees or managers of a pension scheme –  
     (a) to have a policy about the calculation and verification of the cash equivalent of any collective benefit that may be provided by the scheme;  
     (b) to follow that policy in calculating or verifying any cash equivalent.
- (2) In this section “cash equivalent” means the cash equivalent mentioned in section 93A(1ZB) of the Pension Schemes Act 1993. 30
- (3) The regulations may, in particular –  
     (a) require the trustees or managers to consult about the policy;  
     (b) require the trustees or managers to ensure that the policy is consistent with any requirements imposed by regulations under section 97 of the Pension Schemes Act 1993; 35  
     (c) make other provision about the content of the policy;  
     (d) make provision about reviewing and revising the policy.

*Winding up***36 Winding up** 40

Regulations may –

- (a) disapply or modify the application of any of sections 73, 73A, 73B and 74 of the Pensions Act 1995 (winding up) in relation to collective benefits;
- (b) make provision in relation to collective benefits corresponding or similar to any provision made by those sections.

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*Regulations under Part 32: general*

**37 Requirement to obtain actuarial advice**

- (1) Regulations may require the trustees or managers of a pension scheme to obtain advice from ~~the scheme an~~ actuary before making a specified decision or taking other specified steps required by regulations under this Part. 10
- (2) ~~Regulations may—~~The regulations may, in particular, require the trustees or managers ~~of a pension scheme~~ to obtain the advice from ~~the scheme an~~ actuary ~~before making a~~ who has specified ~~decision qualifications~~ or ~~taking meets~~ other specified ~~steps required by regulations under this Part~~requirements. 15
- (3) The regulations — 15
  - (a) may require ~~the scheme an~~ actuary to have regard to guidance issued from time to time by a specified person when advising on ~~those matters~~matters in accordance with the regulations;
  - (b) may impose other requirements on ~~the scheme an~~ actuary when advising on ~~those matters~~matters in accordance with the regulations.
- (4) ~~In this section “the scheme actuary” has the meaning given by the regulations.~~ 20

**38 Sub-delegation**

Regulations under this Part may confer a discretion on a person.

**39 Publication etc of documents**

Regulations under this Part requiring the trustees or managers of a pension scheme to prepare or obtain any document may impose requirements about —

- (a) the publication of the document;
- (b) the sending of copies to persons specified in the regulations.

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**40 Enforcement**

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~~Regulations under this Part —~~

- (a) ~~may confer functions on a specified person in connection with enforcement of the regulations;~~

Regulations under this Part may provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a person who fails to comply with the regulations.

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**41 Overriding requirements**

Regulations under this Part may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

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*Interpretation of Part ~~3~~ and amendments~~2~~***42 Interpretation of Part ~~3~~**

- (1) In this Part— 5
- “collective benefit” has the meaning given by section ~~198~~;
  - “collective benefit investments”, in relation to a scheme, means investments held for the purposes of the provision of any collective benefits under the scheme;
  - “money purchase benefit” has the meaning given by section 181 of the Pension Schemes Act 1993;
  - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993; 10
  - “required ~~range~~, in relation to a level of probability~~”, means the level of probability range~~ specified in regulations under section ~~209~~(2)(c);
  - “target” means a target required by regulations under section ~~209~~;
  - “trustees or managers” means —
    - (a) in relation to a scheme established under a trust, the trustees, and
    - (b) in relation to any other scheme, the managers; 15
  - “valuation report” has the meaning given by section ~~26~~17.
- (2) A power conferred by this Part 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. 20

**43 Collective benefits: amendments to other legislation****PART 4**GENERAL CHANGES TO LEGISLATION ABOUT PENSION SCHEMES*Administration and governance* 25**44 Pensions promise obtained from third party**

- (1) Regulations may provide that the trustees or managers of a defined benefits scheme or a shared risk scheme must not obtain a pensions promise from a third party unless conditions specified in the regulations are met. 30
- (2) Regulations under this section —
- (a) may provide for a specified provision of the regulations to override a provision of a scheme to the extent that there is a conflict;
  - (b) may provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a person who fails to comply with the regulations. 35
- (3) In this section —
- “defined benefits scheme” has the meaning given by section 2;
  - “pensions promise” has the meaning given by section 5; 40
  - “shared risk scheme” has the meaning given by section 3;
  - “trustees or managers” means —

- (a) in relation to a scheme established under a trust, the trustees, and
    - (b) in relation to any other scheme, the managers.
  - (4) In section 34(7) of the Pensions Act 1995 (power of investment and delegation overrides other legislation etc), for the words from “other than” substitute “other than an enactment contained in, or made under –
    - (a) this Part,
    - (b) the Pension Schemes Act 1993, or
    - (c) section 30 of the Pension Schemes Act 2014.”
- 45 Duty to act in the best interests of members**
  - (1) Regulations may impose a duty on the managers of a relevant non-trust based scheme to act in the best interests of members when taking decisions of a specified description.
  - (2) In this section “relevant non-trust based scheme” means a non-trust based scheme that is –
    - (a) a shared risk scheme, or
    - (b) a defined contributions scheme under which any of the benefits that may be provided are collective benefits.
  - (3) Regulations under this section –
    - (a) may provide for the duty to act in the best interests of members to override obligations that are inconsistent with that duty (including obligations imposed by any instrument, enactment or rule of law), but
    - (b) do not otherwise affect any duty that might arise apart from this section.
  - (4) Regulations under this section may provide for the consequences of a manager breaching (or threatening to breach) the duty to act in the best interests of members to be the same as the consequences of breaching (or threatening to breach) a fiduciary duty owed by the manager to the members and, accordingly, for the duty to be enforceable in the same way as a fiduciary duty.
  - (5) In this section –
    - “collective benefit” has the meaning given by section 8;
    - “defined contributions scheme” has the meaning given by section 4;
    - “non-trust based scheme” means a scheme that is not established under a trust;
    - “shared risk scheme” has the meaning given by section 3.
- 46 Disclosure of information about schemes**
  - (1) Section 113 of the Pension Schemes Act 1993 (disclosure of information about schemes to members etc) is amended as follows.
  - (2) In subsection (1) –
    - (a) in the opening words, for “the persons mentioned in subsection (2)” substitute “persons of prescribed descriptions”;
    - (b) in paragraph (ca), omit “to the member” and “by him”.
  - (3) Omit subsection (2).



(4) Before subsection (3) insert –

“(2A) In complying with requirements specified in the regulations, a person must have regard to any guidance prepared from time to time by the Secretary of State.”

(5) For subsection (4) substitute –

“(4) Where the regulations specify requirements to be complied with in the case of an occupational pension scheme with respect to keeping recognised trade unions informed, the regulations must make provision for referring to an employment tribunal any question whether an organisation is a recognised trade union.

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(4A) For the purposes of subsection (4) a trade union is a recognised trade union in relation to an occupational pension scheme if it is an independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.”

(6) In subsection (5), for “some or all of the persons mentioned in subsection (2)” substitute “persons of a prescribed description”.

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(7) Omit paragraph 17 of Schedule 12 to the Pensions Act 2004, which is no longer needed given subsection (3).

Early leavers

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**47 Extension of preservation of benefit under occupational pension schemes**

(1) Part 4 of the Pension Schemes Act 1993 (protection for early leavers) is amended as follows.

(2) In section 71 (basic principle as to short service benefit) –

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(a) in subsection (1), for paragraph (aa) (but not the “or” at the end) substitute –

“(aa) he has at least 30 days’ qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be benefit falling within subsection (1A).”;

25

(b) after subsection (1) insert –

“(1A) The following fall within this subsection –

(a) collective benefits;

(b) benefits calculated otherwise than by reference to the member’s salary.”

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(3) In section 70 (interpretation of Chapter 1: preservation requirements), in subsection (1) –

(a) after the definition of “relevant employment” insert –

““benefits”, in relation to a member of a scheme, means –

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(a) retirement benefit for the member at normal pension age, or

(b) benefit for the member’s wife, husband, civil partner, widow, widower, surviving civil partner or dependants or others on the



- member’s attaining normal pension age or the member’s later death, or
- (c) both such descriptions of benefit;”;
- (b) in the definition of “long service benefit” omit the words from “and in this definition “benefits” means” to the end of the definition.
- (4) In section 71, for subsections (7) to (11) substitute – 5
- “(7) In subsection (1), “2 years’ qualifying service” or (as the case may be) “30 days’ qualifying service” means a period of service of the relevant duration in which the member was at all times employed either –
- (a) in pensionable service under the scheme, or
- (b) in service in employment which was contracted-out by reference to the scheme, or
- (c) in linked qualifying service under another scheme. 10
- (8) For the purposes of subsection (7) –
- (a) a period of service may consist of a single period or two or more periods, continuous or discontinuous;
- (b) no regard is to be had to whether or not the service was of the same description throughout the period of service.
- (9) A period of service previously terminated is not to count towards the 2 years’ or (as the case may be) 30 days’ qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way. 15
- (10) Subsection (1)(aa) does not apply in relation to a person’s membership of a scheme if – 20
- (a) in a case where the benefit would necessarily all be money purchase benefit, any period of relevant service began before the day on which section 36 of the Pensions Act 2014 came into force (whether or not it also ended before that date);
- (b) in any other case, any period of relevant service began before the day on which section 33 of the Pension Schemes Act 2014 came into force (whether or not it also ended before that date). 25
- “Relevant service” means service that counts towards the 30 days’ qualifying service for the purposes of subsection (1)(aa).”
- (5) In section 74 (computation of short service benefit), in subsections (3) and (4), after “so much of any benefit” insert “, other than collective benefit.”. 30
- (6) In section 36 of the Pensions Act 2014, omit subsections (2) and (3) which are no longer needed given the earlier provisions of this section.
- 48** Revaluation of accrued benefits
- Schedule 1 contains amendments about the revaluation of benefits. 35
- 49** Transfer values
- Schedule 2 contains amendments about transfer values.

**50 Restriction on transfers out of public service defined benefits schemes**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 93 (scope of Chapter 4 of Part 4: transfer values for early leavers), after subsection (1B) insert – 5
- “(1C) The Treasury may by regulations apply this Chapter with prescribed modifications in relation to a person who is a member of a public service defined benefits scheme to prevent the person from taking a right to a cash equivalent in such a way that its value is –
- (a) transferred to a defined contributions scheme;
- (b) converted into a right to collective benefits.” 10
- (3) In section 93, after subsection (2) insert –
- “(3) In subsection (1C) –
- “collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2014;
- “defined contributions scheme” has the meaning given by section 37 of the Public Service Pensions Act 2013; 15
- “public service defined benefits scheme” means a public service pension scheme that is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013.”
- (4) In section 186 (Parliamentary control of orders and regulations), in subsection (1) (negative procedure), after “Secretary of State” insert “or the Treasury”. 20

*Indexation***51 Collective benefits exempt from indexation** 25

- (1) In section 51 of the Pensions Act 1995 (annual increase in rate of pension) –
- (a) in subsection (1), for “Subject to subsections (6) and (7)” substitute “Subject to subsections (6) to (7A)”;
- (b) after subsection (7) insert –
- “(7A) This section does not apply to any pension, or part of a pension, that is a collective benefit.” 30
- (2) Omit section 21(2) of the Pensions Act 2011, which is no longer needed given subsection (1).

**52 Regulatory own fund schemes exempt from indexation** 35

- (1) Section 51 of the Pensions Act 1995 (annual increase in rate of pension) is amended as follows.
- (2) In subsection (1)(a)(ii) (scheme based exemption) after “public service pension scheme” insert “or a regulatory own fund scheme (see subsection (9))”.
- (3) After subsection (8) insert – 40
- “(9) In subsection (1)(a)(ii) “regulatory own fund scheme” means a scheme in respect of which Article 17 of Council Directive 2003/41/EC of 3

June 2003 on the activities and supervision of institutions for occupational retirement provision applies.

- (10) Regulations may amend subsection (9) to replace the reference to the Article mentioned there with a reference to any provision of an EU instrument that replaces it (with or without changes)."

### **53 Power to create other exemptions from indexation**

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- (1) In section 51 of the Pensions Act 1995 (annual increase in rate of pension), after subsection (5) insert—

“(5A) Regulations may provide that this section does not apply to a pension, or part of a pension, of a specified description.

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(5B) But regulations under subsection (5A) may not be made in respect of—

- (a) a pension, or any part of a pension, under a defined benefits scheme,  
(b) a pension, or any part of a pension, which came into payment before the day on which the regulations come into force, or  
(c) a pension, or any part of a pension, which is attributable to pensionable service before the day on which the regulations come into force.

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(5C) Regulations under subsection (5A) may amend this Part.”

- (2) In section 175(2) of that Act (statutory instruments subject to affirmative procedure), before paragraph (a) insert—

“(za) section 51(5A),”.

20

#### Independent trustees

### **54 Removal of requirement to maintain register of independent trustees**

- (1) Section 23 of the Pensions Act 1995 (power to appoint an independent trustee of an occupational pension scheme on the insolvency of the person who is the employer in relation to the scheme etc) is amended as follows.

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- (2) In subsection (1), omit paragraph (b) (requirement for the trustee to be registered in a register maintained by the Pensions Regulator) and the “and” before it.

- (3) Omit subsections (4) to (6) (regulations to provide for there to be a register of independent trustees).

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#### Rules about modification of schemes

### **55 Rules about modification of schemes**

- (1) The Pensions Act 1995 is amended as follows.

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- (2) In section 67 (the subsisting rights provisions)—

(a) in subsection (3), omit paragraph (b) and the “or” before it;

- (b) after subsection (3) insert—
- “(3A) Regulations may provide for cases in which the subsisting rights provisions do not apply.”
- (3) In section 67A (the subsisting rights provisions: interpretation), in subsection (3) (meaning of “protected modification”), after paragraph (a) insert—
- “(aa) on taking effect would or might result in any subsisting right of a member of the scheme which is a right to benefits in respect of which there is a pensions promise becoming, or being replaced with, a right to benefits under the scheme rules in respect of which there is no pensions promise,
- (ab) on taking effect would or might result in any subsisting right of a member of the scheme which is a right to retirement income in respect of which there is a pensions promise becoming, or being replaced with, a right to benefits other than retirement income,
- (ac) on taking effect would or might result in any subsisting right of—
- (i) a member of the scheme, or
- (ii) a survivor of a member of the scheme,
- being replaced with a right or entitlement to collective benefits under the scheme rules,”.
- (4) In subsection (3)(b) of that section, after “rules” insert “, other than a pension that is a collective benefit”.
- (5) In subsection (5)(a) of that section, after “paragraph (a)” insert “, (aa), (ab), (ac)”.
- (6) In subsection (9) of that section—
- (a) in paragraph (a), after sub-paragraph (vii) insert—
- “(viii) regulations made under Part 2 of the Pension Schemes Act 2014;”;
- (b) in paragraph (b), after sub-paragraph (v) insert—
- “(vi) regulations made under section 28 of the Pension Schemes Act 2014.”
- (7) In section 124 (interpretation), in subsection (1), at the appropriate places insert—
- ““pensions promise” has the meaning given by section 5 of the Pension Schemes Act 2014;”;
- ““retirement income” has the meaning given by section 7 of the Pension Schemes Act 2014;”.

*Other amendments*

56 ~~Schedule 4 contains~~ **Other amendments to do with collective benefits.** Parts 1 and 2

Schedule 3—

- (a) contains amendments to do with Parts 1 and 2, and
- (b) replaces references to “money purchase scheme” so as to limit the number of different ways of categorising pension schemes.

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**PART 5**

~~MISCELLANEOUS AND GENERAL~~

PENSIONS GUIDANCE

**57** Pensions guidance

Schedule 4 contains amendments of the Financial Services and Markets Act 2000, and of other legislation, that are about the giving of pensions guidance to pension scheme members with a right or entitlement to cash balance benefits or other money purchase benefits.

**PART 6**

MISCELLANEOUS

*Remploy*

**58** **Payments into Remploy Limited Pension and Assurance Scheme**

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

*Consequential amendments etc*

Judicial pensions

**59** Pension scheme for fee-paid judges

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

“PART 1A

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

- (1) The appropriate Minister may by regulations establish a scheme for the payment of pensions and other benefits to or in respect of fee-paid judges.
- (2) The scheme may make provision for payments to or in respect of a person in relation to the person’s service before the scheme is established.
- (3) No benefits are to be provided under a new public service pension scheme in relation to service in relation to which benefits are to be provided under a scheme under this section.  
“New public service pension scheme” means a scheme under –
  - (a) section 1 of the Public Service Pensions Act 2013, or
  - (b) section 1 of the Public Service Pensions Act (Northern Ireland) 2014 (c. 2).
- (4) Regulations under this section may, in particular, include provision corresponding or similar to –

- (a) any provision made by Part 1, section 20 or Schedule 2 or 2A;
- (b) any provision that may be made by regulations under Part 1, section 20 or Schedule 2 or 2A.

(5) In this section –

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

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

- (2) Schedule 5 contains related amendments.

**60 Judicial pensions: pension sharing on divorce etc**

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

*Marriage of same sex couples*

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

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

*Pension sharing*

**62 Pension sharing and normal benefit age**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 101B (interpretation), for the definition of “normal benefit age” substitute –
- ““normal benefit age”, in relation to a pension credit benefit for a member of a scheme, is the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);
- “normal pension age”, in relation to a benefit for a member of a scheme, means the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);”.
- (3) In section 101C (basic principle as to pension credit benefit), for subsection (1) substitute –
- (1) The normal benefit age in relation to a pension credit benefit for a member of a scheme –
- (a) must not be lower than 60, and
  - (b) must not be higher than the permitted maximum.

(1A) The “permitted maximum” is 65 or, if higher, the highest normal pension age for any benefit that is payable under the scheme to or in respect of any of the members by virtue of rights which are not attributable (directly or indirectly) to a pension credit.”

## PART 7

### GENERAL

#### **63 References to “pensions legislation”: amendments to include this Act etc**

- (1) The Pensions Act 2004 is amended as follows.
- (2) In section 13 (improvement notices), in subsection (7) –
  - (a) omit the “or” at the end of paragraph (d);
  - (b) after paragraph (e) insert “, or
  - (f) the Pension Schemes Act 2014.”
- (3) In section 90 (codes of practice), in the definition of “the pensions legislation” in subsection (6) –
  - (a) omit the “or” at the end of paragraph (c);
  - (b) after paragraph (d) insert –
    - “(e) Schedule 18 to the Pensions Act 2014, or
    - (f) the Pension Schemes Act 2014.”
- (4) In section 254 (representative of non-European scheme to be treated as trustee), in subsection (3) –
  - (a) omit the “or” at the end of paragraph (c);
  - (b) after paragraph (d) insert “, or
  - (e) the Pension Schemes Act 2014.”
- (5) In section 291 (duty of trustees or managers to act consistently with law of host member state), in subsection (4) –
  - (a) omit the “or” at the end of paragraph (c);
  - (b) after paragraph (d) insert “, or
  - (e) the Pension Schemes Act 2014.”

#### **64 Power to make consequential amendments**

- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify any legislation (whenever passed or made).
- (3) “Legislation” means –
  - (a) an Act, or
  - (b) subordinate legislation as defined by section 21(1) of the Interpretation Act 1978.

*General***65 Regulations**

- (1) A power to make regulations under this Act is exercisable by the Secretary of State.
- (2) Regulations under this Act are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under section ~~40-50~~ that ~~amend~~ amend, repeal or ~~repeal otherwise modify~~ a provision of an Act (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to a statutory instrument containing regulations under section 54(3) or (5) only.
- (6) A power to make regulations under this Act may be used –
  - (a) to make different provision for different purposes;
  - (b) in relation to all or only some of the purposes for which it may be used.
- (7) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

**66 Crown application**

- (1) In this section “the relevant provisions” means –
  - (a) ~~section 9 Part 2 (pensions promise obtained from third party collective benefits)~~, and
  - (b) ~~section 9-30 (pensions promise obtained from third party)~~, ~~and~~.
  - ~~(c) Part 3 (collective benefits).~~
- (2) The relevant provisions apply to a pension scheme managed by or on behalf of the Crown as they apply to other pension schemes.
- (3) Accordingly, references in those provisions to a person in the person’s capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (4) References in the relevant provisions to a person in the person’s capacity as an employer include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (5) Nothing in the relevant provisions applies to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

**67 Extent**

- (1) This Act extends to England and Wales and Scotland only, subject to the following provisions of this section.
- (2) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates.
- (3) Section 47 extends to Scotland only.



- (4) This Part, apart from ~~sections 38 and section 39~~<sup>49</sup>, extends also to Northern Ireland.

## 68 Commencement

- (1) The ~~provisions of this Part, other than sections 38 and 39,~~<sup>following</sup> come into force on the day on which this Act is passed:—
- (a) sections 45 and 46 and Schedule 5;
  - (b) this Part, apart from section 49.
- (2) Section 48 comes into force on 1 April 2015.
- (3) The following come into force on such day or days as may be appointed by regulations—
- (a) ~~Parts 1, 2, and 3;~~
  - (b) ~~in this Part, sections 38 and 39.~~
  - (c) Parts 1 to 4;
  - (d) sections 44, 47 and 49.
- (4) Regulations under subsection ~~(2)~~<sup>(3)</sup> may appoint different days for different purposes.
- (5) Regulations may make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

## 69 Short title

This Act may be cited as the Pension Schemes Act 2014.

## SCHEDULES

### SCHEDULE 1

Section [834](#)

#### AMENDMENTS TO DO WITH PART 1

##### *Pension Schemes Act 1993 (c. 48)*

- |   |  |    |
|---|--|----|
| 1 | <del>The Pension Schemes Act 1993 is amended as follows.</del>   | 5  |
| 2 | <del>In section 83 (scope of provisions about revaluation of benefits excluding guaranteed minimum pensions), in subsection (4), for paragraph (a) (but not the “and” at the end) substitute—<br/>“(a) it is not a scheme under which all the benefits that may be provided are money purchase benefits.”</del>  |    |
| 3 | <del>(1) Section 93 (scope of provisions about transfer values) is amended as follows.<br/>(2) In subsection (1A), for paragraph (a) (but not the “and” at the end) substitute—<br/>“(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits.”<br/>(3) In subsection (1B)(b), for sub-paragraphs (i) and (ii) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”.</del> | 10 |
| 4 | <del>In section 101P (interpretation of Chapter about transfer values), in subsection (2), for paragraph (a) (but not the “and” at the end) substitute—<br/>“(a) it is not a scheme under which all the benefits that may be provided are money purchase benefits.”</del>  | 15 |
| 5 | <del>In section 101Q (power to modify Chapter about transfer values in relation to hybrid schemes), for paragraphs (a) and (b) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”.</del>   | 20 |
| 6 | <del>In section 113 (disclosure of information about schemes to members etc), in subsection (10), for the definition of “relevant scheme” substitute—<br/>““relevant scheme” means an occupational pension scheme under which all the benefits that may be provided are money purchase benefits.”</del>  |    |
| 7 | <del>In section 124 (duty of Secretary of State to pay unpaid contributions to schemes), for subsection (3A) substitute—<br/>“(3A) The sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection in any case where the scheme is—<br/>(a) a defined contributions scheme,</del>   | 25 |

- ~~(b) a shared risk scheme under which all the benefits that may be provided are money purchase benefits.”~~
- 8 (1) ~~In section 181 (interpretation), subsection (1) is amended as follows:~~
- (2) ~~At the appropriate places insert—~~ 5
- ~~““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”~~
- ~~““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;”~~
- ~~““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”~~ 10
- (3) ~~Omit the definition of “money purchase scheme”.~~
- Pensions Act 1995 (c. 26)*
- 9 ~~The Pensions Act 1995 is amended as follows:~~ 15
- 10 ~~In section 38 (power to defer winding up), in subsection (3), for paragraph (a) (but not the “or” at the end) substitute—~~
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”~~
- 11 ~~In section 51 (annual increase in rate of pension), in subsection (1)(a)(iii), for “is not a money purchase scheme” substitute “is not a defined contributions scheme”.~~ 20
- 12 ~~In section 51A (restrictions on increase where annuity tied to investments), in subsection (1), for “money purchase scheme” substitute “defined contributions scheme”.~~ 25
- 13 ~~In section 73 (preferential liabilities on winding up), in subsection (2), for paragraph (a) and the “or” at the end substitute—~~
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”~~
- 14 (1) ~~In section 75 (employer debt where deficiency in assets on winding up etc), in subsection (1), for paragraph (a) and the “or” at the end substitute—~~ 30
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”~~
- 15 (1) ~~Section 89 (application of further provisions to money purchase schemes) is amended as follows:~~ 35
- (2) ~~In subsection (1), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits and that are schemes”.~~
- (3) ~~In subsection (2), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits”.~~
- 16 ~~In section 124 (interpretation), in subsection (1), at the appropriate places insert—~~ 40
- ~~““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”~~
- ~~““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;”~~

~~“shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”.~~

17 (1) Section 125 (interpretation of Part 1: supplementary) is amended as follows.

(2) ~~In subsection (1), for paragraph (a) (but not the “and” at the end) substitute—~~ 5

~~“(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits;”.~~

(3) ~~In subsection (2), for paragraphs (a) and (b) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”.~~ 10

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

18 ~~In section 38 of the Welfare Reform and Pensions Act 1999 (treatment in winding up), in subsection (2A), for paragraph (a) (but not the “or” at the end) substitute—~~ 15

~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits;”.~~

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

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

20 ~~In section 137FA (FCA general rules: disclosure of information about pension scheme transaction costs etc), in subsection (8)—~~ 20

~~(a) at the appropriate place insert—~~

~~““money purchase benefit” has the meaning given by section 181(1) of the Pension Schemes Act 1993;”;~~

~~(b) omit the definition of “money purchase scheme”;~~ 25

~~(c) in the definition of “relevant scheme” for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits and”.~~

21 (1) Section 142X (interpretation of provisions about ring-fencing) is amended as follows.

(2) ~~In subsection (2), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.~~ 30

(3) ~~In subsection (4), for “Money purchase scheme” substitute “Money purchase benefits”.~~

*Pensions Act 2004 (c. 35)* 35

22 The Pensions Act 2004 is amended as follows.

23 (1) Section 23 (freezing orders) is amended as follows.

(2) ~~In subsection (1), for “which is not a money purchase scheme” substitute “unless it is excluded by subsection (1A)”.~~ 40

(3) ~~After that subsection insert—~~

~~“(1A) A scheme is excluded if—~~

- (a) ~~all the benefits that may be provided under the scheme are money purchase benefits, and~~
- (b) ~~the scheme does not provide for there to be a third party promise about the rate or amount of any benefit at a time before the benefit comes into payment (see subsection (10A)).~~ 5
- (4) ~~In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”.~~
- (5) ~~After subsection (10) insert—~~ 10
- ~~“(10A) For the purposes of subsection (1A)(b), a scheme provides for there to be a third party promise if the scheme—~~
- ~~(a) requires the promise to be obtained from a third party[, or~~
- ~~(b) provides for the member to be given the option of requiring a promise to be obtained from a third party (whether or not the option is subject to conditions)].”~~ 15
- 24 ~~In section 38 (contribution notices where avoidance of employer debt), in subsection (1), for paragraph (a) (but not the “or” at the end) substitute—~~
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”.~~ 20
- 25 ~~In section 43 (financial support directions), in subsection (1), for paragraph (a) (but not the “or” at the end) substitute—~~
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”.~~
- 26 ~~In section 52 (restoration orders where transactions at an undervalue), in subsection (1), for paragraph (a) (but not the “or” at the end) substitute—~~ 25
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”.~~
- 27 ~~In section 126 (schemes eligible for pension protection), in subsection (1), for paragraph (a) and the “and” at the end substitute—~~
- ~~“(a) is not a scheme under which all the benefits that may be provided are money purchase benefits,”.~~ 30
- 28 ~~In section 221 (application of scheme funding rules in Part 3), in subsection (1), for paragraph (a) and the “or” at the end substitute—~~
- ~~“(a) a scheme under which all the benefits that may be provided are money purchase benefits,”.~~ 35
- 29 ~~In section 258 (pension protection on transfer of employment: form of protection), in subsection (2)—~~
- ~~(a) in paragraph (b), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”;~~
- ~~(b) in paragraph (c), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.~~
- 30 ~~In section 286 (financial assistance scheme for members of certain pension schemes), in subsection (2), for sub-paragraph (i) of paragraph (a) of the definition of “qualifying pension scheme” (but not the “or” at the end)~~ 40

~~substitute—~~

~~“(i) a scheme under which all the benefits that may be provided are money purchase benefits,”.~~

31 ~~In section 307 (modification of Pensions Act 2004 in relation to certain categories of schemes), in subsection (4), for paragraph (a) of the definition of “hybrid scheme” (but not the “but” at the end) substitute—~~

~~“(a) which is not a scheme under which all the benefits that may be provided are money purchase benefits,”.~~

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32 ~~In section 318 (interpretation), in subsection (1) omit the definition of “money purchase scheme”.~~

*Pensions Act 2008 (c. 30)*

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33 ~~The Pensions Act 2008 is amended as follows.~~

34 (1) ~~Section 20 (quality requirement: UK money purchase schemes) is amended as follows:~~

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~~(2) In subsection (1), for “A money purchase scheme” substitute “An occupational defined contributions scheme”.~~

~~(3) In the heading, for “money purchase schemes” substitute “occupational defined contributions schemes”.~~

20

35 ~~In section 21 (quality requirement: UK defined benefits schemes) for “A defined benefits scheme” substitute “An occupational defined benefits scheme”.~~

36 ~~In section 23A (alternative quality requirements for UK defined benefits schemes), in subsection (1), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”.~~

25

37 (1) ~~Section 24 (quality requirement: UK hybrid schemes) is amended as follows.~~

~~(2) In subsection (1)—~~

~~(a) for “A hybrid scheme” substitute “A shared risk scheme”;~~

~~(b) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;~~

30

~~(c) in paragraph (b), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;~~

~~(d) after paragraph (b) insert—~~

~~“(c) the requirements under section 26 for a personal pension scheme that is a defined contributions scheme, subject to any prescribed modifications.”~~

35

~~(3) In subsection (2), for “hybrid scheme” substitute “shared risk scheme”.~~

~~(4) In the heading, for “hybrid schemes” substitute “shared risk schemes”.~~

38 (1) ~~Section 26 (quality requirement: UK personal pension schemes) is amended as follows:~~

40

~~(2) In subsection (1), after “personal pension scheme” insert “that is a defined contributions scheme”.~~

~~(3) Omit subsection (3) (requirement for all benefits to be money purchase benefits).~~

- (4) In subsection (4), for “second condition” substitute “first condition”.
- (5) In subsection (6), for “third condition” substitute “second condition”.
- (6) In subsection (7), for “fourth condition” substitute “third condition”.
- 39 (1) Section 28 (certification that quality requirement or alternative requirement is satisfied) is amended as follows:
- (2) In subsection (3)—
- (a) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
- (b) in paragraph (b), after “a personal pension scheme” insert “that is a defined contributions scheme”;
- (c) for paragraph (c) substitute—
- “(c) a shared risk scheme, to the extent that requirements within section 24(1)(a) or (c) apply.”
- (3) In subsection (3A)—
- (a) for paragraph (a) substitute—
- “(a) an occupational defined contributions scheme that is within section 18(b);”
- (b) for paragraph (c) substitute—
- “(c) an occupational shared risk scheme that is within section 18(b), to the extent prescribed;”.
- (4) In subsection (3B), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”.
- 40 For the heading to section 29 substitute “Transitional periods for certain schemes”.
- 41 (1) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows:
- (2) In subsection (1), for “hybrid schemes” substitute “shared risk schemes”.
- (3) In subsection (2)(b) and (c), for “a defined benefits scheme or a defined benefits member of a hybrid scheme” substitute “an occupational defined benefits scheme or a defined benefits member of a shared risk scheme”.
- (4) In subsection (3)—
- (a) in the opening words, for “hybrid schemes” substitute “shared risk schemes”;
- (b) in the substituted subsection (2), for paragraphs (a) and (b) substitute—
- “(a) an active member, with effect from the end of the transitional period for defined benefits and shared risk schemes, of an automatic enrolment scheme which is an occupational defined benefits scheme, or
- (b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a shared risk scheme.”
- (5) In subsection (4), for “hybrid schemes” substitute “shared risk schemes”.
- (6) In subsection (5)—

- (a) ~~in the substituted subsection (2)(a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;~~
- (b) ~~in the substituted subsection (2)(aa), for “hybrid scheme” substitute “shared risk scheme”;~~
- (c) ~~in the substituted subsection (2), for paragraph (b) substitute—~~ 5  
    ~~“(b) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is—~~  
        ~~(i) a personal pension scheme other than a shared risk scheme, or~~  
        ~~(ii) an occupational pension scheme under which all the benefits that may be provided are money purchase benefits or collective benefits;”;~~ 10
- (d) ~~in the substituted subsection (2)(c), for “hybrid scheme” substitute “shared risk scheme”;~~ 15
- (e) ~~in the substituted subsection (2)(d), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;~~
- (f) ~~in the substituted subsection (2)(e), for “hybrid scheme” substitute “shared risk scheme”.~~
- (7) ~~In subsections (8) and (9), for “hybrid schemes” substitute “shared risk schemes”.~~ 20
- (8) ~~In subsection (10)(a) and (b), for “hybrid scheme” substitute “shared risk scheme”.~~
- (9) ~~In subsection (11)—~~ 25  
    ~~(a) in paragraph (a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;~~  
    ~~(b) in paragraph (b), for “hybrid scheme” substitute “shared risk scheme”.~~
- (10) ~~In the heading, for “hybrid schemes” substitute “shared risk schemes”.~~ 30
- 42 ~~In section 35 (compliance notices), in subsection (5), for “a defined benefits scheme or a hybrid scheme” substitute “an occupational defined benefits scheme or a shared risk scheme”.~~
- 43 ~~In section 38 (calculation and payment of contributions), in subsection (2)(e), for “a money purchase scheme, a hybrid scheme or a personal pension scheme” substitute “a defined contributions scheme or a shared risk scheme”.~~ 35
- 44 (1) Section 99 (interpretation) is amended as follows:
- (2) At the appropriate places insert—
- ~~““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”~~ 40
- ~~““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;”~~
- ~~““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”~~ 45



~~“shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”.~~

- ~~(3) Omit the following definitions—  
“defined benefits”;  
“defined benefits scheme”;  
“hybrid scheme”;  
“money purchase scheme”.~~

5

*Pensions Act 2014 (c.19)*

45 (1) ~~Schedule 17 to the Pensions Act 2014 (automatic transfer of pension benefits etc) is amended as follows.~~

10

~~(2) In paragraph 1(2)(a) and (5)(a), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.~~

~~(3) In paragraph 15(1) omit the definition of “money purchase scheme”.~~

15

## SCHEDULE 2

Section 12

### EARLY LEAVERS: REVALUATION OF ACCRUED BENEFITS

20

1 The Pension Schemes Act 1993 is amended as follows.

2 Before section 83 insert—

#### **“82A Overview and meaning of “relevant commencement date”**

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- (1) This Chapter is about the revaluation of benefits for early leavers.  
(2) The table contains an overview of the contents of this Chapter.

<i>Section</i>	<i>General description</i>
Section 83	Benefits to which this Chapter applies
Sections 84 and 84A	Basis of revaluation: benefits accrued before the 2014 Act commencement date
Sections 84B and 84C	Basis of revaluation: benefits accrued on or after the 2014 Act commencement date
Section 84D	Special rules for hybrid benefits
Sections 84E and 84F	Revaluation by other methods
Section 85	Revaluation not to apply to substituted benefits
Sections 85A to 86B	Supplementary provision and definitions

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- (3) In this Chapter “the 2014 Act commencement date” means the date on which paragraph 2 of Schedule 2-1 to the Pension Schemes Act 2014 comes into force.”
- 3 In section 83, for subsection (1A) substitute – 5
- “(1A) In subsection (1) “relevant benefits” means benefits that are –
- (a) retirement benefits payable to a member, or
  - (b) benefits payable in respect of a member.
- (1AA) This Chapter does not apply to any benefits payable by virtue of pension credit rights except, in the case of a salary related occupational pension scheme, to the extent that they involve the member being credited by the scheme with notional pensionable service. 10
- (1AB) Where this Chapter applies in relation to a benefit payable by virtue of a pension credit right, then –
- (a) if entitlement to the relevant pension credit arose before the 2014 Act commencement date, the benefit is to be treated for the purposes of sections 84(1) and 84B(1) as attributable to pensionable service before that date; 15
  - (b) if entitlement to the relevant pension credit arose on or after the 2014 Act commencement date, the benefit is to be treated for the purposes of sections 84(1) and 84B(1) as attributable to pensionable service on or after that date. 20
- (1AC) “Pension credit rights” means rights that are attributable (directly or indirectly) to a pension credit.”
- 4 For section 84 substitute – 25
- “84 Old basis of revaluation: occupational pension schemes**
- (1) A benefit of the kind mentioned in section 83(1)(a) must be revalued in accordance with this section if it is attributable to pensionable service before the 2014 Act commencement date.
  - (2) The benefit must be revalued using the final salary method unless it is – 30
    - (a) a money purchase benefit (see subsection (3)),
    - (b) an average salary benefit revalued in accordance with subsection (4), or
    - (c) a flat rate benefit revalued in accordance with subsection (5). 35
  - (3) If the benefit is a money purchase benefit it must be revalued using the money purchase method.
  - (4) If the benefit is an average salary benefit it must be revalued using the average salary method if the trustees or managers of the scheme consider the average salary method to be more appropriate than the final salary method. 40
  - (5) If the benefit is a flat rate benefit it must be revalued using the default method if the trustees or managers of the scheme consider the default method to be more appropriate than the final salary method.

**84A Old basis of revaluation: personal pension schemes**

- (1) A benefit of the kind mentioned in section 83(1)(b) must be revalued in accordance with this section if it is attributable to contributions received before the 2014 Act commencement date.
- (2) The benefit must be revalued using the money purchase method.

**84B New basis of revaluation: occupational pension schemes**

(1) [A benefit of the kind mentioned in section 83\(1\)\(a\) that is a collective benefit must be revalued using the default method.](#) 5

(2) A benefit of the kind mentioned in section 83(1)(a) [that is not a collective benefit](#) must be revalued in accordance with [the following provisions of](#) this section if it is attributable to pensionable service on or after the 2014 Act commencement date. 10

(3) The benefit must be revalued using the default method unless it is –  
 (a) a money purchase benefit (see subsection (4)),  
 (b) a salary related benefit (see subsections (5) and (6)), or  
 (c) a flat rate benefit revalued in accordance with subsection (7). 15

(4) If the benefit is a money purchase benefit it must be revalued using the money purchase method.

(5) If the benefit is a salary related benefit it must be revalued using the final salary method unless it is revalued in accordance with subsection (6). 20

(6) If the benefit is an average salary benefit it must be revalued using the average salary method if the trustees or managers of the scheme consider the average salary method to be more appropriate than the final salary method. 25

(7) If the benefit is a flat rate benefit it must be revalued using the final salary method if the trustees or managers of the scheme consider the final salary method to be more appropriate than the default method.

**84C New basis of revaluation: personal pension schemes**

(1) A benefit of the kind mentioned in section 83(1)(b) must be revalued in accordance with this section if it is attributable to contributions received on or after the 2014 Act commencement date. 30

(2) The benefit must be revalued using the default method unless it is a money purchase benefit.

(3) If the benefit is a money purchase benefit it must be revalued using the money purchase method. 35

**84D Hybrid benefits**

(1) This section modifies the revaluation requirements in this Chapter in relation to hybrid benefits. 40

(2) “Hybrid benefit” means a benefit the rate or amount of which depends on which of two or more alternative methods of calculation produces the highest, or lowest, rate or amount.

(3) For hybrid benefits –

- (a) first, calculate the benefit using each of those methods and revalue in accordance with this Chapter, and
- (b) then, determine which method of calculation produces the highest, or lowest, rate or amount.

**84E Revaluation by other methods: general**

5

The fact that an occupational pension scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of the member to be increased during the pre-pension period –

- (a) by the percentages specified during that period under section 151(1) of the Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes), or
- (b) under any arrangement which, in the opinion of the Secretary of State, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain during that period,

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does not in itself result in conflict with section 84 or 84B, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member’s widow, widower, surviving same sex spouse or surviving civil partner has not been deducted.

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**84F Revaluation by other methods: transitional protection in certain cases**

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- (1) This section applies to a scheme which, before the 2014 Act commencement date, provided for any description of benefits to which this Chapter applies to be revalued by a method that the scheme was allowed to use under subsection (3A) or (3B) of old section 84.
- (2) The scheme may continue to use that method of revaluation in relation to that description of benefits for so long as it continues to contain that provision.
- (3) In subsection (1), “the old section 84” means section 84 as it had effect immediately before the substitution made by Schedule 2-1 to the Pension Schemes Act 2014.”

25

30

5 After section 85 insert –

**“85A Power to add revaluation methods for personal pension schemes**

- (1) Regulations may make provision enabling or requiring benefits of the kind mentioned in section 83(1)(b) to be revalued by the average salary or final salary method in specified cases.
- (2) Regulations under this section –
  - (a) may amend this Chapter (and may, in particular, amend the average salary or final salary method as applied in relation to benefits of the kind mentioned in section 83(1)(b));
  - (b) may not change the revaluation method to be used for a benefit the right to which has already accrued.”

35

40

6 After section 86 insert –

**“86A The revaluation methods**

The revaluation methods referred to in this Chapter are defined by the provisions listed in the table.

5

<i>Method</i>	<i>Provision</i>
Average salary method	Paragraph 3 of Schedule 3
Default method	Paragraph A1 of Schedule 3
Final salary method	Paragraphs 1 to 2A of Schedule 3
Money purchase method	Paragraph 5 of Schedule 3

10

**86B Definitions of benefits referred to in this Chapter**

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(1) In this Chapter –

“average salary benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference to the member’s average salary over the period of service to which the benefit relates;

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“final salary benefit” means a benefit under an occupational pension scheme that is calculated by reference to the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member’s pensionable service in relation to that scheme ends;

25

“flat rate benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference solely to the member’s length of service;

“salary related benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference to the salary of the member.

30

(2) In subsection (1) “pensionable earnings”, in relation to a pension scheme and a member of it, means earnings by reference to which benefits under the scheme are calculated.”

35

7 In section 186(3) (statutory instruments subject to affirmative procedure), after paragraph (b) insert –

“(ba) regulations under section 85A, or”.

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

*“The default method*

40

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

(a) in the case of an occupational pension scheme, the member’s pensionable service had not terminated, or

45

- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”
- 9 Omit paragraphs 3A and 4 of that Schedule.
- 10 In paragraph 5(1) of that Schedule, for “if his pensionable service had not terminated” substitute “if –
- (a) in the case of an occupational pension scheme, the member’s pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.” 10
- 11 Omit the following, which are no longer needed given the earlier provisions of this Schedule –
- (a) paragraph 31(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999;
- (b) section 19(1) to (3) of the Pensions Act 2011. 15

~~SCHEDULE 3~~

SCHEDULE 4 Section ~~43~~35

EARLY LEAVERS: TRANSFER VALUES

- 1 Chapter 4 of Part 4 of the Pension Schemes Act 1993 (protection for early leavers: transfer values) is amended as follows. 20
- 2 (1) Section 93 (scope of Chapter 4) is amended as follows.
- (2) In subsection (1A), in the opening words, for “this section and the following provisions of this Chapter” substitute “subsection (1)(a)”. 25
- (3) In subsection (1B)(b) omit “occupational pension”.
- 3 (1) Section 93A (salary related schemes: right to statement of entitlement) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) This section applies to an occupational pension scheme or a personal pension scheme that is –
- (a) a defined benefits scheme,
- (b) a shared risk scheme, or
- (c) a defined contributions scheme that is not a scheme under which all the benefits that may be provided are money purchase benefits. 30 35
- (1ZA) The trustees or managers of a scheme to which this section applies must, on the application of any member, provide the member with a statement of entitlement.
- (1ZB) For the purposes of this Chapter a member’s “statement of entitlement” is – 40
- (a) in the case of an occupational pension scheme, a written statement of the amount of the cash equivalent at the guarantee date of any benefits which have accrued to or in respect of the member under the applicable rules;

- (b) in the case of a personal pension scheme, a written statement of the amount of the cash equivalent at the guarantee date of any benefits which have accrued to or in respect of the member under the rules of the scheme.”
- (3) In subsection (1A), for “(1)” substitute “(1ZB)”.
- (4) In subsection (4), after “in the case of any” insert “occupational pension”. 5
- (5) In the heading, for “Salary related schemes” substitute “Schemes with a promise or target”.
- 4 (1) Section 94 (right to cash equivalent) is amended as follows. 10
- (2) For subsection (1) substitute –
- “(1) Subject to the following provisions of this Chapter –
- (a) a member of a scheme to which section 93A applies who –
- (i) has received a statement of entitlement under that section, and
- (ii) has made a relevant application within three months beginning with the guarantee date in respect of the statement, 15
- acquires a right to the guaranteed cash equivalent;
- (b) a member of an occupational pension scheme to which section 93A does not apply acquires a right, when the member’s pensionable service terminates (whether before or after 1 January 1986), to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of the member under the applicable rules; 20
- (c) a member of a personal pension scheme to which section 93A does not apply acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of the member under the rules of the scheme.” 25
- (3) In subsection (1A), for “(1)(aa)” substitute “(1)(a)”.
- (4) In subsection (2A) –
- (a) in paragraph (a), after sub-paragraph (ix) insert – 30
- “(x) regulations made under Part 2 of the Pension Schemes Act 2014;”;
- (b) in paragraph (b), after sub-paragraph (vii) insert –
- “(viii) regulations made under section 28 of the Pension Schemes Act 2014.” 35
- (5) For subsection (3) substitute –
- “(3) Regulations may provide that, in prescribed circumstances –
- (a) subsection (1)(a) applies to members of a prescribed scheme, or schemes of a prescribed description, with prescribed modifications;
- (b) subsection (1)(b) or (c) applies to members of a prescribed scheme, or schemes of a prescribed description, instead of subsection (1)(a).” 40
- 5 In section 95 (ways of taking right to cash equivalent), in subsection (1), omit “paragraph (a), (aa) or (b) of”.

- 6 (1) Section 97 (calculation of cash equivalents) is amended as follows.
- (2) In subsection (2)(a), in the opening words, for “except guaranteed cash equivalents” substitute “for the purposes of section 94(1)(b) and (c)”.
- (3) In subsection (2)(aa), for “, including a guaranteed cash equivalent,” substitute “(acquired by virtue of section 94(1)(a), (b) or (c))”. 5
- (4) In subsection (3A)(a) –
- (a) for “salary related occupational pension scheme” substitute “scheme to which section 93A applies”;
- (b) for “section 93A)” substitute “that section)”. 10
- 7 (1) Section 98 (variation and loss of rights under section 94) is amended as follows.
- (2) In subsection (1), for “other than a salary related scheme” substitute “to which section 93A does not apply”.
- (3) In subsection (1A), for “a salary related occupational pension scheme” substitute “an occupational pension scheme to which section 93A applies”. 15
- (4) In subsection (3) –
- (a) in paragraph (a), for “salary related scheme” substitute “scheme to which section 93A applies”;
- (b) in paragraph (aa), for “a salary related occupational pension scheme” substitute “an occupational pension scheme to which section 93A applies”. 20
- (5) In subsection (5), after “member of” insert “an occupational pension scheme or”.
- (6) In subsection (8), after “In this section –” insert – 25
- ““guaranteed cash equivalent”, in relation to a member of a scheme who has applied for a statement of entitlement under section 93A, means the cash equivalent amount stated in the statement of entitlement;”.
- 8 (1) Section 99 (trustees’ duties after exercise of option) is amended as follows. 30
- (2) In subsection (2), for paragraphs (a) to (c) substitute –
- “(a) in the case of a member of a scheme to which section 93A applies –
- (i) within 6 months beginning with the guarantee date, or 35
- (ii) where the scheme is an occupational pension scheme, by the date (if earlier) on which the member attains normal pension age;
- (b) in the case of a member of an occupational pension scheme to which section 93A does not apply, within 6 months beginning with the date on which they receive the application or (if earlier) by the date on which the member attains normal pension age; 40
- (c) in the case of a member of a personal pension scheme to which section 93A does not apply, within 6 months beginning with the date on which they receive the application.”



- 9 Omit the following provisions of the Pensions Act 1995, which are no longer needed given the earlier provisions of this Schedule –
- (a) section 154(1) to (3) and (5);
  - (b) in Schedule 6, paragraphs 4(a), 5(a) and 6(a).

5

## SCHEDULE 5

Section 37

## COLLECTIVE BENEFITS: AMENDMENTS TO OTHER LEGISLATION

10

## PART 1

## EXEMPTION FROM INDEXATION

Pension credits: transfer values

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10 Chapter 2 of Part 4A of the Pension Schemes Act 1993 (pension credit benefit: transfer values) is amended as follows.

11 In section 101F (power to give transfer notice), in subsection (4)(a), for “salary related occupational pension scheme” substitute “scheme to which section 101H applies”.

20

12 In section 101G (restrictions on power to give transfer notice), in subsection (1), for “salary related occupational pension scheme” substitute “scheme to which section 101H applies”.

13 (1) ~~Section 51 of the Pensions Act 1995 101H (annual increase in rate salary related schemes: statements of pension entitlement)~~ is amended as follows.

25

(2) For subsection (1) substitute –

“(1) This section applies to a qualifying scheme that is –

(a) a defined benefits scheme,

(b) a shared risk scheme, or

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

30

other than a scheme that falls within a prescribed class.

(1A) The trustees or managers of a scheme to which this section applies must, on the application of any eligible member, provide the member with a written statement of the amount of the cash equivalent of the member’s pension credit benefit under the scheme.”

35

(3) In ~~subsection (2) and (13)~~, for ~~“Subject to subsections (6) and (7)”~~ substitute ~~“Subject to subsections (6) to (7A1A)”~~.

40

(4) ~~After In~~ subsection ~~(7) insert~~ –

~~“(7A) This section does not apply to any pension, or part of a pension, that is a collective benefit.”~~

14 ~~Omit section 21(2) of the Pensions Act 2011, which is no longer needed given paragraph 1.~~

45

~~PART 2~~

~~RULES ABOUT MODIFICATION OF SCHEMES~~

- (a) for “to whom subsection (1)” substitute “of a scheme to which this section”; 5
- (b) for “that subsection” substitute “subsection (1A)”.
- (1) In the heading, for “Salary related schemes” substitute “Schemes with a promise or target”.
- 15 (1) ~~Section 67A of the Pensions Act 1995-101J (the subsisting rights provisions: interpretation)~~ time for compliance with transfer notice is amended as follows. 10
- (2) In subsection ~~(3) (meaning of “protected modification”)~~ 1, ~~after paragraph for paragraphs (aaa) and (inserted by section 18 of this Act)~~ insert substitute – 15
- ~~“(ab) on taking effect would or might result in any subsisting right of—~~
- ~~(i) a member of the scheme, or~~
- ~~(ii) a survivor of a member of the scheme,~~
- ~~being replaced with a right or entitlement to collective benefits under the scheme rules.”~~ 20
- “(a) in the case of a scheme to which section 101H applies, within 6 months of the valuation date, and
- (b) in the case of any other scheme, within 6 months of the date on which the notice is given.”
- (3) For subsection (7) substitute – 25
- “(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 101H is determined.”
- 16 (1) Section 101P (interpretation) is amended as follows. 30
- (2) Omit subsection (2).
- (3) In subsection ~~(3)(b), after for “rulesalary related occupational pension scheme” insert substitute “, other than a pension scheme to which that is a collective benefit~~ section applies”. 35
- ~~(4) In subsection (5)(a), after “(aa)” (inserted by section 18 of this Act) insert “, (ab)”.~~

SCHEDULE 6

Section 42

40

OTHER AMENDMENTS TO DO WITH PARTS 1 AND 2

Pension Schemes Act 1993 (c. 48)

- 1 The Pension Schemes Act 1993 is amended as follows. 45
- 2 In section 83 (scope of provisions about revaluation of benefits excluding guaranteed minimum pensions), in subsection (4), for paragraph (a) (but not

- the “and” at the end) substitute—
- “(a) it is not a scheme under which all the benefits that may be provided are money purchase benefits,”.
- 3 (1) Section 93 (scope of provisions about transfer values) is amended as follows. 5
- (2) In subsection (1A), for paragraph (a) (but not the “and” at the end) substitute—
- “(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits,”.
- (3) In subsection (1B)(b), for sub-paragraphs (i) and (ii) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”. 10
- 4 In section 101P (interpretation of Chapter about transfer values), in subsection (2), for paragraph (a) (but not the “and” at the end) substitute—
- “(a) it is not a scheme under which all the benefits that may be provided are money purchase benefits,”. 15
- 5 In section 101Q (power to modify Chapter about transfer values in relation to hybrid schemes), for paragraphs (a) and (b) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”.
- 6 In section 113 (disclosure of information about schemes to members etc), in subsection (610), for the ~~words after paragraph (b)~~ definition of “relevant scheme” substitute— 20
- ~~— “For this purpose—~~
- ~~“benefit” and “pension” do not include a collective benefit;~~
- ~~“right” includes a pension credit right.”~~
- PART 1 25
- FUNDING PROVISIONS
- Duty of Secretary of State to pay unpaid contributions*
- ““relevant scheme” means an occupational pension scheme under which all the benefits that may be provided are money purchase benefits.” 30
- 7 In section 124 ~~of the Pension Schemes Act 1993~~ (duty of Secretary of State to pay unpaid contributions to schemes), ~~in for~~ subsection (3A) ~~as inserted by Schedule 1 to this Act, at end the of paragraph (b) insert “,~~ or substitute— 35
- “(3A) The sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection in any case where the scheme is—
- (a) a defined contributions scheme,
- (b) a shared risk scheme under which all the benefits that may be provided are money purchase benefits, or 40
- (c) a shared risk scheme under which all the benefits that may be provided are money purchase benefits or collective benefits.”
- 8 (1) In section 181 (interpretation), subsection (1) is amended as follows.

(2) At the appropriate places insert –

““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2014;”

““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”

““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;”

““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”.

(3) Omit the definition of “money purchase scheme”.

Pensions Act 1995 (c. 26)

9 The Pensions Act 1995 is amended as follows.

10 In section 37 (payment of surplus to employer), in subsection (1A) –

(a) after “does not apply in the case of” insert “ –

(a) ”;

(b) at the end insert –

“(b) any payments out of funds held for the purposes of providing collective benefits under the scheme (but see section 21 of the Pension Schemes Act 2014).”

11 In section 38 (power to defer winding up), in subsection (3), for paragraph (a) (but not the “or” at the end) substitute –

“(a) a scheme under which all the benefits that may be provided are money purchase benefits.”

12 In section 51 (annual increase in rate of pension), in subsection (1)(a)(iii), for “is not a money purchase scheme” substitute “is not a defined contributions scheme”.

13 In section 51A (restrictions on increase where annuity tied to investments), in subsection (1), for “money purchase scheme” substitute “defined contributions scheme”.

14 In section 73 (preferential liabilities on winding up), for subsection (2) substitute –

“(2) This section applies to a pension scheme that is –

(a) an occupational defined benefits scheme,

(b) an occupational shared risk scheme, or

(c) an occupational defined contributions scheme,

unless subsection (2A) provides for the scheme to be exempt.

(2A) A scheme is exempt from this section if it is –

(a) a ~~shared risk~~ scheme under which all the benefits that may be provided are money purchase ~~benefits or collective~~ benefits.”, or

Exemption from employer debt provisions

(b) a prescribed scheme or a scheme of a prescribed description.”

15 ~~Section 75 of the Pensions Act 1995~~ (employer debt where

deficiency in assets on winding up etc), for subsection (1) is amended as follows: substitute –

~~(1) In subsection (1), after paragraph (a) (exceptions) insert –~~

“(1) This section applies in relation to a pension scheme that is –

(a) an occupational defined benefits scheme,

(b) an occupational shared risk scheme, or

(c) an occupational defined contributions scheme,

unless subsection (1A) provides for the scheme to be exempt.

5

(1A) A scheme is exempt from this section if it is –

(a) a scheme under which all the benefits that may be provided are money purchase benefits,

(b) a scheme under which all the benefits that may be provided are collective benefits,

(c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or”.

10

15

~~(2) After subsection (1) insert –~~

(d) a prescribed scheme or a scheme of a prescribed description.

(1B) Where –

(a) some of the benefits that may be provided ~~by~~ under a scheme are collective benefits and some are not, and

(b) the scheme does not fall within paragraph ~~(abc)~~ or ~~(bd)~~ of subsection ~~(1A)~~,

the scheme is to be treated for the purposes of this ~~section~~ Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

20

25

*Exemption from pension protection provisions*

16 (1) Section 87 (schedules of payments to money purchase schemes) is amended as follows.

30

(2) For subsection (1) substitute –

“(1) This section applies to an occupational pension scheme that is a scheme under which –

(a) all the benefits that may be provided are money purchase benefits, or

(b) all the benefits that may be provided are money purchase benefits or collective benefits,

other than a scheme falling within a prescribed class or description.”

35

(3) In subsection (2)(a), after “members of the scheme” insert “in respect of money purchase benefits”.

40

(4) In the heading, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.

17 For the italic cross-heading above section 87 substitute “Schemes providing money purchase benefits”.

45

- 18 In the heading to section 88 (schedules of payments to money purchase schemes: supplementary), for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 19 (1) Section ~~126~~ 89 (application of ~~the Pensions Act 2004 (schemes eligible for pension protection)~~ further provisions to money purchase schemes) is amended as follows. 5
- (2) In subsection (1), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits and that are schemes”. 10
- (3) In subsection (2), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits”. 10
- 20 In section 124 (interpretation), in subsection (1), ~~after paragraph (a) (exceptions)~~ at the appropriate places insert – 15
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2014;”
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”.
- 21 (1) Section 125 (interpretation of Part 1: supplementary) is amended as follows. 20
- (2) In subsection (1), for paragraph (a) (but not the “and” at the end) substitute –
- “(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits;”.
- (3) In subsection (2), for paragraphs (a) and (b) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”. 25

Welfare Reform and Pensions Act 1999 (c. 30)

- 22 In section 38 of the Welfare Reform and Pensions Act 1999 (treatment in winding up), in subsection (2A), for paragraph (a) (but not the “or” at the end) substitute – 30
- “(a) ~~is not~~ a scheme under which all the benefits that may be provided are ~~collective~~ money purchase benefits;”.

Financial Services and Markets Act 2000 (c. 8)

- 23 The Financial Services and Markets Act 2000 is amended as follows. 35
- 24 In section 137FA (FCA general rules: disclosure of information about pension scheme transaction costs etc), in subsection (8) –

- (a) at the appropriate place insert –  
     ““money purchase benefit” has the meaning given by  
     section 181(1) of the Pension Schemes Act 1993;”;
- (b) omit the definition of “money purchase scheme”;
- (c) in the definition of “relevant scheme” for “money purchase scheme”  
substitute “scheme under which all the benefits that may be  
provided are money purchase benefits and”. 5
- 25 (1) Section 142X (interpretation of provisions about ring-fencing) is amended as  
follows.
- (2) In subsection (2), for “money purchase scheme” substitute “scheme under  
which all the benefits that may be provided are money purchase benefits”. 10
- (3) In subsection (4), for “Money purchase scheme” substitute “Money purchase  
benefits”.
- Pensions Act 2004 (c. 35)
- 26 The Pensions Act 2004 is amended as follows. 15
- 27 In section 17 (power of the Regulator to recover unpaid contributions), in  
subsection (3) –
- (a) in paragraph (b) of the definition of “due date”, for “to money  
purchase schemes” substitute “in respect of money purchase benefits  
under certain schemes”; 20
- (b) in paragraph (a) of the definition of “employer contribution”, for “to  
money purchase schemes” substitute “in respect of money purchase  
benefits under certain schemes”.
- 28 (1) Section 23 (freezing orders) is amended as follows.
- (2) In subsection (1), for “which is not a money purchase scheme” substitute  
“unless it is excluded by subsection (1A)”. 25
- (3) After that subsection insert –
- “(1A) A scheme is excluded if –
- (a) ~~is not a scheme under which~~ all the benefits that may be  
provided under the scheme are money purchase benefits or  
collective benefits, and”. 30
- (b) the scheme does not provide for there to be a third party  
promise about the rate or amount of any benefit at a time  
before the benefit comes into payment (see  
subsection (10A)).” 35
- (4) In subsection (2), for “such a scheme” substitute “a scheme to which this  
section applies”.
- (5) After subsection (10) insert –
- “(10A) For the purposes of subsection (1A)(b), a scheme provides for there  
to be a third party promise if the scheme – 40
- (a) requires the promise to be obtained from a third party, or
- (b) provides for the member to be given the option of requiring  
a promise to be obtained from a third party (whether or not  
the option is subject to conditions).”

29 In section 38 (contribution notices where avoidance of employer debt), for subsection (1) substitute –

“(1) This section applies in relation to a pension scheme that is –

- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,

unless subsection (1A) provides for the scheme to be exempt.

5

(1A) A scheme is exempt from this section if it is –

- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.

10

(1B) Where –

- (a) some of the benefits that may be provided ~~by~~ under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph ~~(abc)~~ or ~~(bd)~~ of subsection ~~(1A)~~,

15

the scheme is to be treated for the purposes of this ~~Part~~ section and sections 38A to 42 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

20

*Exemption from scheme funding provisions*

30 (1) ~~Section 221 of the Pensions Act 2004 43 (application of scheme funding rules in Part 3 of that Act)~~ financial support directions) is amended as follows.

25

(2) ~~In For~~ subsection (1), ~~after paragraph (a) (exceptions) insert~~ substitute –

“(1) This section applies in relation to a pension scheme that is –

- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,

unless subsection (1A) provides for the scheme to be exempt.

30

(1A) A scheme is exempt from this section if it is –

- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.

35

(1B) Where –

- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),

40



- the scheme is to be treated for the purposes of this section and sections 43A to 51 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- (3) In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”. 5
- 31 In section 52 (restoration orders where transactions at an undervalue), for subsection (1) substitute –
- “(1) This section applies in relation to a pension scheme that is –
- (a) an occupational defined benefits scheme, 10
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is – 15
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or 20
- (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where –
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A), 25
- the scheme is to be treated for the purposes of this section and sections 53 to 56 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 32 In section 90 (codes of practice), in subsection (2)(i), for “money purchase schemes” substitute “certain schemes”. 30
- 33 In section 126 (schemes eligible for pension protection), for subsection (1) substitute –
- “(1) Subject to the following provisions of this section, in this Part references to an “eligible scheme” are to a pension scheme that is –
- (a) an occupational defined benefits scheme, 35
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme.
- (1A) A scheme is not an eligible scheme if it is –
- (a) a scheme under which all the benefits that may be provided are money purchase benefits, 40
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.

(1B) Where—

(a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and

(b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),

the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

5

34 For section 221 (application of scheme funding rules) substitute—

**“221 Pension schemes to which this Part applies**

(1) The provisions of this Part apply to a pension scheme that is—

10

(a) an occupational defined benefits scheme,

(b) an occupational shared risk scheme, or

(c) an occupational defined contributions scheme,

unless subsection (2) provides for the scheme to be exempt.

15

(2) A scheme is exempt from this Part if it is—

(a) a scheme under which all the benefits that may be provided are ~~collective-money purchase~~ benefits,

(b) a scheme under which all the benefits that may be provided are collective benefits,

20

(c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or<sup>2</sup>.

~~(1) After subsection (1) insert—~~

(d) a prescribed scheme or a scheme of a prescribed description.

25

(3) Where—

(a) some of the benefits that may be provided ~~by~~under a scheme are collective benefits and some are not, and

(b) the scheme does not fall within paragraph (~~abc~~) or (~~bd~~) of subsection (~~12~~),

the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

30

(4) ~~In Regulations under subsection (2), at (d) may provide for exemptions from all or any of the end insert “provisions of this Part, but for the purposes of subsection (1A3)(b) a scheme falls within subsection (12)(bd) only if it is exempt from all of the provisions of this Part.”~~

35

**PART 2**

**PAYMENT SCHEDULES ETC**

40

35 In section 258 (pension protection on transfer of employment: form of protection), in subsection (2)—

(a) in paragraph (b), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”;



- 41 In section 21 (quality requirement: UK defined benefits schemes) for “A defined benefits scheme” substitute “An occupational defined benefits scheme”.
- 42 In section 23A (alternative quality requirements for UK defined benefits schemes), in subsection (1), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”. 5
- 43 (1) Section ~~87 of the Pensions Act 1995~~ 24 (schedules of payments to money purchase quality requirement: UK hybrid schemes) is amended as follows.
- (2) In subsection (1)– 10
- (a) for “A hybrid scheme” substitute “A shared risk scheme”;
- (b) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
- (c) in paragraph (b), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
- (d) ~~For subsection after paragraph (1b) substitute insert –~~ 15
- ~~“(1) This section applies to an occupational pension scheme that is a scheme under which –~~
- ~~“(c) the requirements under section 26 for a personal pension scheme that is a defined contributions scheme, subject to any prescribed modifications.”~~ 20
- (3) In subsection (2), for “hybrid scheme” substitute “shared risk scheme”.
- (4) In the heading, for “hybrid schemes” substitute “shared risk schemes”.
- 44 (1) Section 26 (quality requirement: UK personal pension schemes) is amended as follows.
- (2) In subsection (1), after “personal pension scheme” insert “that is a defined contributions scheme”. 25
- (3) ~~Omit subsection (3) (requirement for all the benefits that may to be provided are money purchase benefits, or).~~
- ~~(d) all the benefits that may be provided are money purchase benefits or collective benefits, other than a scheme falling within a prescribed class or description.”~~ 30
- (4) In subsection (4), for “second condition” substitute “first condition”.
- (5) In subsection (6), for “third condition” substitute “second condition”.
- (6) In subsection (7), for “fourth condition” substitute “third condition”. 35
- 45 (1) Section 28 (certification that quality requirement or alternative requirement is satisfied) is amended as follows.
- (2) In subsection (3)– 40
- (a) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
- (b) ~~In subsection in paragraph (2b)(a),~~ after “~~members of the a personal pension scheme~~” insert “~~in respect of money purchase benefits~~ that is a defined contributions scheme”;

- (c) for paragraph (c) substitute—  
 “(c) a shared risk scheme, to the extent that requirements within section 24(1)(a) or (c) apply.”
- (3) In subsection (3A)— 5  
 (a) for paragraph (a) substitute—  
 “(a) an occupational defined contributions scheme that is within section 18(b);”  
 (b) for paragraph (c) substitute—  
 “(c) an occupational shared risk scheme that is within section 18(b), to the extent prescribed;” 10
- (4) In ~~the heading~~ subsection (3B), for “~~to money purchase schemes~~ a defined benefits scheme” substitute “~~in respect of money purchase~~ an occupational defined benefits ~~under certain schemes~~ scheme”.
- 46 For the ~~italic cross~~ heading ~~above to~~ section ~~87 of the Pensions Act 1995-29~~ substitute “~~Schemes providing money purchase benefits~~ Transitional periods for certain schemes”. 15
- 47 (1) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows. 15  
 (2) In subsection (1), for “hybrid schemes” substitute “shared risk schemes”.  
 (3) In subsection (2)(b) and (c), for “a defined benefits scheme or a defined benefits member of a hybrid scheme” substitute “an occupational defined benefits scheme or a defined benefits member of a shared risk scheme”. 20  
 (4) In subsection (3)—  
 (a) in the opening words, for “hybrid schemes” substitute “shared risk schemes”;  
 (b) in the substituted subsection (2), for paragraphs (a) and (b) substitute— 25  
 “(a) an active member, with effect from the end of the transitional period for defined benefits and shared risk schemes, of an automatic enrolment scheme which is an occupational defined benefits scheme, or 30  
 (b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a shared risk scheme.”  
 (5) In subsection (4), for “hybrid schemes” substitute “shared risk schemes”.  
 (6) In subsection (5)— 35  
 (a) in the substituted subsection (2)(a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;  
 (b) in the substituted subsection (2)(aa), for “hybrid scheme” substitute “shared risk scheme”;  
 (c) in the substituted subsection (2), for paragraph (b) substitute— 40  
 “(b) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is—  
 (i) a personal pension scheme other than a shared risk scheme, or 45

- (ii) an occupational pension scheme under which all the benefits that may be provided are money purchase benefits or collective benefits;
- (d) in the substituted subsection (2)(c), for “hybrid scheme” substitute “shared risk scheme”; 5
- (e) in the substituted subsection (2)(d), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
- (f) in the substituted subsection (2)(e), for “hybrid scheme” substitute “shared risk scheme”.
- (7) In subsections (8) and (9), for “hybrid schemes” substitute “shared risk schemes”. 10
- (8) ~~In the heading to section 88 of the Pensions Act 1995 subsection (10)(a) and (schedules of payments to money purchase schemes: supplementary b), for “to money purchase schemes hybrid scheme” substitute “in respect of money purchase benefits under certain schemes shared risk scheme”.~~ 15
- 48 ~~In section 17 of the Pensions Act 2004 (power of the Regulator to recover unpaid contributions), in subsection (3)–~~
- (1) In subsection (11)–
- (a) ~~in paragraph (b) of the definition of “due date” a), for “to money purchase schemes a defined benefits scheme” substitute “in respect of money purchase an occupational defined benefits under certain schemes scheme”;~~ 20
- (b) ~~in paragraph (a) of the definition of “employer contribution” b), for “to money purchase schemes hybrid scheme” substitute “in respect of money purchase benefits under certain schemes shared risk scheme”.~~
- (2) ~~In section 90 (codes of practice), in subsection (2)(i) the heading, for “money purchase hybrid schemes” substitute “certain shared risk schemes”.~~ 25

### PART 3

#### AMENDMENTS OF INTERPRETATION PROVISIONS

- 49 In section 35 (compliance notices), in subsection (5), for “a defined benefits scheme or a hybrid scheme” substitute “an occupational defined benefits scheme or a shared risk scheme”. 30
- 50 In section 38 (calculation and payment of contributions), in subsection (2)(e), for “a money purchase scheme, a hybrid scheme or a personal pension scheme” substitute “a defined contributions scheme or a shared risk scheme”. 35
- 51 (1) Section 99 (interpretation) is amended as follows.
- (2) At the appropriate places insert–
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2014;”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2014;” 40

“occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”

“shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2014;”.

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(3) Omit the following definitions –

“defined benefits”;

“defined benefits scheme”;

“hybrid scheme”;

“money purchase scheme”.

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Pensions Act 2014 (c.19)

52 (1) Schedule 17 to the Pensions Act 2014 (automatic transfer of pension benefits etc) is amended as follows.

(2) In paragraph 1(2)(a) and (5)(a), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.

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(3) In paragraph 15(1) omit the definition of “money purchase scheme”.

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## SCHEDULE 7

Section 43

### PENSIONS GUIDANCE

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

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2 After section 333 insert –

#### “PART 20A

### PENSIONS GUIDANCE

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#### **333A Introduction and definitions**

(1) This Part is about the giving of pensions guidance.

(2) “Pensions guidance” means guidance given for the purpose of helping a member of a pension scheme to make decisions about what to do with the cash balance benefits or other money purchase benefits that may be provided to the member.

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(3) In this Part –

“cash balance benefits” has the meaning given by section 152(5) of the Finance Act 2004;

“money purchase benefits” has the meaning given by section 152(4) of the Finance Act 2004;

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“pensions guidance” has the meaning given by subsection (2);

“pension scheme” has the meaning given by section 150(1) of the Finance Act 2004.

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Giving of pensions guidance

**333B Treasury’s role in relation to pensions guidance**

- (1) The Treasury must take such steps as they consider appropriate to ensure that people have access to pensions guidance. 5
- (2) The Treasury may –
- (a) seek to increase awareness of the availability of the guidance;
  - (b) undertake or commission research relating to the giving of the guidance. 10

**333C Giving of pensions guidance**

- (1) The bodies listed in subsection (2) are to give pensions guidance in accordance with arrangements made with the Treasury.
- (2) Those bodies are – 15
- (a) the Pensions Advisory Service Limited;
  - (b) the National Association of Citizens Advice Bureaux;
  - (c) the Scottish Association of Citizens Advice Bureaux;
  - (d) the Northern Ireland Association of Citizens Advice Bureaux. 20
- (3) The bodies listed in subsection (2) may give pensions guidance by arranging for it to be given by another person (including another listed body).
- (4) The National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux and the Northern Ireland Association of Citizens Advice Bureaux may jointly carry out their functions of giving pensions guidance. 25
- (5) The Treasury may by regulations repeal one or more of paragraphs (a) to (d) of subsection (2).
- (6) Regulations under subsection (5) may make consequential amendments of this Act. 30

**333D Financial assistance to bodies involved in giving pensions guidance**

- (1) The Treasury may make grants or loans or give any other form of financial assistance to – 35
- (a) the Pensions Advisory Service Limited;
  - (b) the Northern Ireland Association of Citizens Advice Bureaux.
- (For the power to make grants to the National Association of Citizens Advice Bureaux and the Scottish Association of Citizens Advice Bureaux see section 40A of the Consumers, Estate Agents and Redress Act 2007.) 40
- (2) Any grant, loan or other form of financial assistance under subsection (1) –
- (a) is to be made or given for the purpose of enabling the body to carry out its functions under section 333C(1), and
  - (b) may be made or given subject to such other terms as the Treasury consider appropriate. 45



- (3) Any expenses incurred by the Treasury under this section are to be met out of money provided by Parliament.

*Designation of guidance providers*

**333E Designation of providers of pensions guidance**

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- (1) In this Part “designated guidance provider” means –
- (a) the Pensions Advisory Service Limited,
  - (b) the National Association of Citizens Advice Bureaux,
  - (c) the Scottish Association of Citizens Advice Bureaux,
  - (d) the Northern Ireland Association of Citizens Advice Bureaux, or
  - (e) a person designated by the Treasury as someone who must, in giving pensions guidance, comply with standards set by the FCA under section 333G.
- (2) Before designating a person under subsection (1)(e), the Treasury must –
- (a) consult the FCA,
  - (b) notify the person to be designated, and
  - (c) consider any representations made.
- (3) The Treasury may revoke a designation under subsection (1)(e).
- (4) The Treasury must give notice in writing of a designation under subsection (1)(e) or the revocation of a designation under subsection (3) to the person designated or (as the case may be) the person whose designation has been revoked.
- (5) The Treasury must send a copy of a notice given under subsection (4) to –
- (a) all other designated guidance providers, and
  - (b) the FCA.
- (6) The Treasury must from time to time publish, in such manner as they consider appropriate, a list of the persons who are designated under subsection (1)(e).

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*False claims when giving pensions guidance*

**333F Offence of falsely claiming to be giving pensions guidance under Treasury arrangements**

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- (1) It is an offence for a person who is not giving pensions guidance under arrangements made with the Treasury –
- (a) to describe himself (in whatever terms) as a person who is doing so, or
  - (b) to behave, or otherwise hold himself out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that he is doing so.
- (2) For the purposes of subsection (1), pensions guidance given by a designated guidance provider is given under arrangements made with the Treasury.

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- (3) In proceedings for an offence under this section it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (4) A person guilty of an offence under this section is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both; 5
  - (b) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both. 10
- (5) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (6) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (4)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale. 15

*Standards for giving of pensions guidance by designated guidance providers*

**333G Standards for giving of pensions guidance by designated guidance providers** 20

- (1) The FCA must from time to time set standards for the giving of pensions guidance by designated guidance providers.
- (2) A failure by a designated guidance provider to comply with a standard set under this section is actionable at the suit of a private person who suffers loss as a result of the failure, subject to the defences and other incidents applying to actions for breach of statutory duty. 25
- (3) In subsection (2) “private person” has the same meaning as in section 138D. 30
- (4) Standards set under this section may provide for subsection (2) not to apply to a failure to comply with a specified provision of the standards. 35
- (5) The procedural provisions of this Act in the first column of the table apply to the setting of standards under this section as if references in those provisions to the making of rules (however expressed) were references to the setting of standards and with the additional modifications in the second column. 40



- (5) References in a provision of Part 11 to section 165, 167, 175 or 177 include the relevant section as applied with modifications by this section.

**333I Failure by designated guidance providers to comply with standards: FCA recommendations**

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- (1) If the FCA considers that a designated guidance provider has failed to comply with a standard set under section 333G the FCA may –
- (a) recommend steps that the designated guidance provider might take to prevent the continuance or recurrence of the failure or to make redress to those affected by the failure, and
  - (b) having made such a recommendation, recommend that the Treasury give a direction under section 333L.
- (2) The FCA must publish a recommendation made under subsection (1)(b) unless the FCA considers that to do so –
- (a) would be against the public interest, or
  - (b) would be inappropriate for some other reason.
- (3) If the condition in subsection (2)(a) or (b) is satisfied in relation to a recommendation but would not be satisfied if the FCA published part only of the recommendation, the FCA may publish that part.

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**333J FCA policy on making recommendations under section 333I**

- (1) The FCA must prepare and issue a statement of its policy with respect to the making of recommendations under section 333I.
- (2) The FCA may at any time alter or replace a statement issued under this section.
- (3) If a statement issued under this section is altered or replaced, the FCA must issue the altered or replaced statement.
- (4) The FCA may issue a statement under this section only with the consent of the Treasury.
- (5) A statement issued under this section must be published by the FCA in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of the statement.

**333K FCA policy on making recommendations under section 333I: procedure**

- (1) Before issuing a statement under section 333J, the FCA must –
- (a) consult the Treasury, and
  - (b) publish a draft of the proposed statement in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the FCA within a specified time.
- (3) Before issuing the proposed statement, the FCA must have regard to any representations made to it within the specified time.

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- (4) If the FCA issues the proposed statement it must publish an account, in general terms, of –
    - (a) the representations made to it within the specified time, and
    - (b) its response to them.
  - (5) If the statement differs from the draft published under subsection (1)(b) in a way which is, in the opinion of the FCA, significant, the FCA must (in addition to complying with subsection (4)) publish details of the difference.
  - (6) The FCA may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1)(b).
  - (7) This section also applies to a proposal to alter or replace a statement.

**333L Failure by designated guidance providers to comply with standards: Treasury directions**

- (1) If the Treasury consider that a designated guidance provider has failed to comply with a standard set under section 333G the Treasury may direct the provider to take such steps as the Treasury consider appropriate –
  - (a) to prevent the continuance or recurrence of the failure;
  - (b) to make redress to those affected by the failure.
- (2) The Treasury may give a direction under subsection (1) only if the FCA has made a recommendation under section 333I(1)(b) (although the terms of the direction need not be the same as that recommended by the FCA).
- (3) The Treasury must –
  - (a) give notice in writing of a direction under subsection (1), and
  - (b) send a copy of the notice to the FCA.
- (4) The notice must inform the designated guidance provider that representations about why the direction should not be published may be made to the Treasury within a specified time.
- (5) Once the time specified under subsection (4) has elapsed, the Treasury must publish the direction unless –
  - (a) the Treasury consider that to do so would be against the public interest;
  - (b) having considered representations made by the designated guidance provider within the specified time, the Treasury consider that it would be inappropriate to do so for some other reason.
- (6) If the condition in subsection (5)(a) or (b) is satisfied in relation to a direction but would not be satisfied if the Treasury published part only of the direction, the Treasury may publish that part.
- (7) A direction under subsection (1) is enforceable, on an application made by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

**333M Directions to designated guidance providers under section 333L:  
relationship with power to revoke a designation**

- (1) The power conferred by section 333L(1) is exercisable in addition to, or instead of, the power conferred by section 333E(3) to revoke a designation.
- (2) If the power in section 333E(3) is exercised before the power in section 333L(1) the reference in section 333L(1) to a designated guidance provider is to be read as a reference to a person who, at the time of the failure to comply, was a designated guidance provider.
- (3) Subsection (1) does not limit the grounds on which the power in section 333E(3) may be exercised.

*FCA's duties and power to give guidance*

**333N FCA's duties**

- (1) The FCA must discharge its general pensions guidance functions with a view to securing an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (2) In discharging its general pensions guidance functions the FCA must have regard to—
  - (a) its strategic and operational objectives in section 1B(2) and (3), and
  - (b) the regulatory principles in section 3B.
- (3) In this section the FCA's "general pensions guidance functions" means its functions of—
  - (a) setting standards under section 333G,
  - (b) issuing statements under section 333J,
  - (c) giving general guidance under section 333O (see section 333O(9)),
  - (d) making rules under section 333P, and
  - (e) determining the general policy and principles by reference to which it performs particular functions under this Part.

**333O Power of the FCA to give guidance**

- (1) The FCA may give guidance consisting of such information and advice relating to its functions under sections 333G, 333H, 333I, 333J and 333P as it considers appropriate.
- (2) Subsection (3) applies where the FCA proposes to give guidance to designated guidance providers generally, or to a class of designated guidance providers, in relation to standards set under section 333G or rules made under section 333P.
- (3) Where this subsection applies, subsections (1)(b), (2)(e) and (3) of section 138I apply to the proposed guidance as they apply to proposed rules, unless the FCA considers that the delay in complying with those provisions would be prejudicial to the interests of recipients of pensions guidance from designated guidance providers.

- 
- (4) The FCA may –
    - (a) publish its guidance,
    - (b) offer copies of its published guidance for sale at a reasonable price, and
    - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.
  - (5) On giving any general guidance, the FCA must give written notice to the Treasury without delay.
  - (6) If the FCA alters any of its general guidance, it must give written notice to the Treasury without delay.
  - (7) The notice under subsection (6) must include details of the alteration.
  - (8) If the FCA revokes any of its general guidance, it must give written notice to the Treasury without delay.
  - (9) In this section “general guidance” means guidance given by the FCA under this section which is –
    - (a) given to persons generally, to designated guidance providers generally or to a class of designated guidance provider,
    - (b) intended to have continuing effect, and
    - (c) given in writing or other legible form.

*Funding of pensions guidance*

**333P Funding of FCA’s pensions guidance costs**

- (1) For the purpose of meeting the FCA’s pensions guidance costs the FCA must make rules requiring designated guidance providers, or any specified class of designated guidance provider, to pay to the FCA specified amounts or amounts calculated in a specified way.
- (2) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (3) The amounts to be paid under the rules may include a component –
  - (a) to cover the expenses of the FCA in collecting the payments;
  - (b) to enable the FCA to maintain an adequate reserve.
- (4) In this section the “FCA’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the FCA in connection with the carrying out of the functions conferred on it by this Part other than by section 333Q.

**333Q Funding of Treasury’s pensions guidance costs**

- (1) The Treasury must, from time to time, notify the FCA of the amount of the Treasury’s pensions guidance costs.
- (2) Having been so notified, the FCA must make rules requiring authorised persons, or any specified class of authorised person, to pay to the FCA specified amounts or amounts calculated in a specified way with a view to recovering the amount notified under subsection (1).

- (3) The amounts to be paid under the rules may include a component to cover the expenses of the FCA in collecting the payments (“collection costs”).
- (4) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (5) The rules may be made only with the consent of the Treasury.
- (6) The Treasury may notify the FCA of matters that they will take into account when deciding whether or not to give consent for the purposes of subsection (5).
- (7) The FCA must have regard to any matters notified under subsection (6) before publishing a draft of rules to be made under this section.
- (8) The FCA must pay to the Treasury the amounts that it receives under rules made under this section apart from amounts in respect of its collection costs (which it may keep).
- (9) The Treasury must pay into the Consolidated Fund the amounts received by them under subsection (8).
- (10) In this section the “Treasury’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the Treasury –
  - (a) in giving pensions guidance or arranging for it to be given by designated guidance providers,
  - (b) in meeting the expenses of designated guidance providers incurred in connection with the giving of the guidance (including expenses incurred by virtue of sections 333G(2), 333L and 333P), whether by means of the power conferred by section 333D or otherwise,
  - (c) in providing services to designated guidance providers to support them in giving the guidance,
  - (d) in increasing awareness of the availability of the guidance,
  - (e) in undertaking or commissioning research relating to the giving of the guidance, and
  - (f) otherwise in connection with the carrying out of its functions under section 333B.
- (11) The Treasury may by regulations amend the definition of the “Treasury’s pensions guidance costs” in subsection (10).”

3 In section ~~124 of 1B~~ (the ~~Pensions Act 1995 (interpretation)~~ FCA’s general duties), ~~in after~~ subsection (1), ~~at the appropriate place 7~~ insert –

“(7A) The FCA’s general functions do not include its general pensions guidance functions (see section 333N(3)).”

4 After section 137FA insert –

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

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme



with a right or entitlement to cash balance benefits or other money purchase benefits.

(2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—

- (a) the Secretary of State, and
- (b) the Treasury.

(3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members of pension schemes with a right or entitlement to cash balance benefits or other money purchase benefits.

(4) In this section—

“cash balance benefits” has the meaning given by section 152(5) of the Finance Act 2004;

~~““collective benefit money purchase benefits” has the meaning given by section 19-152(4) of the Pension Schemes Finance Act 2014;”~~2004;

~~““collective benefit pensions guidance” has the meaning means pensions guidance given by section 19-virtue of the Pension Schemes Act 2014Part 20A;”~~

“relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—

- (a) a personal pension scheme within the meaning of an order under section 22, or
- (b) a stakeholder pension scheme within the meaning of such an order.”

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

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

“(aa) section 137FB;”

(b) in that subsection, after paragraph (c) insert—

“(ca) section 333P;

(cb) section 333Q;”

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

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

(b) ”.

6 In section 139A (power of the FCA to give guidance), after subsection (1) insert—

“(1A) The FCA may not give guidance under this section relating to its functions under sections 333G, 333H, 333I, 333J and 333P (see section 333O for provision about the giving of guidance relating to these functions).”

7 In section 140A (competition scrutiny: interpretation), in subsection (1), in paragraph (a) of the definition of “regulating provisions”—

(a) in sub-paragraph (ii), after “section 139B(5)” insert “or 333O(9)”;

- (b) after sub-paragraph (iv) insert –  
“(v) standards set under section 333G;  
(vi) statement issued by the FCA under 333J;”.
- 8 In section 168 (appointment of persons to carry out investigations in particular cases), in subsection (2)(a), after “section 24(1)” insert “or 333F”.
- 9 In section 429 (Parliamentary control of statutory instruments), in subsection (2) (regulations subject to the affirmative resolution procedure), for “or 262” substitute “, 262, 333C or 333Q”.
- 10 In Schedule 1ZA (the FCA), in paragraph 8 (arrangements for discharging functions) –  
(a) in sub-paragraph (3) (legislative functions that must be exercised by the FCA acting through its governing body), in paragraph (c)(i), for “or 312J” substitute “, 312J or 333J”;  
(b) in sub-paragraph (3), after paragraph (d) insert –  
“(e) setting standards under section 333G.”  
(c) in sub-paragraph (4), after “section 139B(5)” insert “or 333O(9)”.
- 11 In that Schedule, in paragraph 11 (annual report), in sub-paragraph (1) (matters to be covered in the report), after paragraph (ha) insert –  
“(hb) how, in its opinion, it has complied with its duties in section 333N.”.
- 12 In that Schedule, in paragraph 23 (fees) –  
(a) in sub-paragraph (1), in the opening words, after “of this Act” insert “other than sections 333P and 333Q”;  
(b) in sub-paragraph (1)(a), after “functions” insert “, other than its excepted functions,”;  
(c) in sub-paragraph (2)(a), after “(ca)” insert “but not its excepted functions”;  
(d) after sub-paragraph (2) insert –  
“(2ZA) The “excepted functions” of the FCA are –  
(a) its functions under sections 333E to 333P, and  
(b) its functions under section 333Q so far as relating to the collection of payments.”
- 13 In section 85 of the Financial Services Act 2012 (relevant functions in relation to scheme for investigating complaints against FCA and other regulators), in subsection (4) (legislative functions of the FCA that are excluded) –  
(a) in paragraph (c)(i), for “or 312J” substitute “, 312J or 333J”;  
(b) in paragraph (e), after “139B(5)” insert “or 333O(9)”;  
(c) after paragraph (e) insert –  
“(f) setting standards under section 333G of FSMA 2000.”
- 14 (1) For the purpose of the exercise of a function conferred by a provision listed in the first column of the table, a consultation requirement listed in the corresponding entry in the second column may be satisfied by things done before the day on which this Act is passed.

<i>Provision conferring function</i>	<i>Consultation requirement</i>
Section 137FB of FSMA	Sections 137FB(2) and 138I(1) of FSMA
Section 333E(1)(e) of FSMA	Section 333E(2) of FSMA
Section 333G(1) of FSMA	Section 138I(1) of FSMA as applied with modifications by section 333G(5) of FSMA
Section 333J(1) of FSMA	Section 333K(1) of FSMA
Section 333O(1) of FSMA	Section 138(1)(b) of FSMA as applied by section 333O(3) of FSMA
Section 333P(1) of FSMA	Sections 138I(1) and 333P(2) of FSMA.
Section 333Q(2) of FSMA	Sections 138I(1) and 333Q(4) of FSMA

- (2) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed standards for the giving of pensions guidance by designated guidance providers –
- (a) the consultation requirement in section 138I of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the draft is not accompanied by –
- (i) a cost benefit analysis, or
- (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers, and
- (b) if it is, any resulting standards published under section 138G(4) of FSMA must be accompanied by –
- (i) a cost benefit analysis within the meaning of section 138I of that Act even if the conditions in subsection (5) of section 138I are not satisfied, and
- (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the standards will secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (3) References in sub-paragraph (2) to provisions of sections 138G and 138I of FSMA are to those provisions as applied with modifications by section 333G(5) of that Act.
- (4) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed rules requiring information about the availability of pensions guidance to be given by the trustees or managers

of a relevant pension scheme to members of the scheme with a right or entitlement to cash balance benefits or other money purchase benefits, the consultation requirement in section 137FB(2) of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the only consultation before publication was with the Treasury.

(5) In this paragraph –

“consultation requirement” includes –

(a) a requirement to publish a draft;

(b) a requirement under section 333E(2)(b) or (c) of FSMA;

“FSMA” means the Financial Services and Markets Act 2000.

15 Expenses incurred by the Financial Conduct Authority before the day on which this Act is passed in anticipation of the conferral of functions on it by virtue of the amendments made by this Schedule are to be treated as if they had been incurred on or after that day.

## SCHEDULE 8

Section 45

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

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

1 The Pensions (Increase) Act 1971 is amended as follows.

2 In section 19(2)(a) (extent to Northern Ireland) –

(a) after “or section” insert “18A or”, and

(b) after “section 10 of that Act” insert “or provision made under section 18A of that Act that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act”.

3 In Schedule 2 (official pensions), after paragraph 4A insert –

“4AA A pension payable under a scheme made under section 18A of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act.”

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

4 The Judicial Pensions and Retirement Act 1993 is amended as follows.

5 In section ~~318–22~~ (application of the Pensions (Increase) Act ~~2004~~ (~~interpretation~~1971 to Northern Ireland), in subsection (~~12~~), ~~at the appropriate place insert –~~

““collective benefit” has the meaning given by section 19 of the Pension Schemes Act 2014;”.

(a) after “shall include” insert “–

(a) ”;

(b) at the end insert “; and

(b) pensions payable under a scheme made under section 18A above, other than pensions payable under or by

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

virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 above.”

- 6 (1) Section 28 (funding arrangements) is amended as follows.
- (2) In subsection (2) (benefits payable out of money provided by Parliament), after paragraph (a) (but before the “and” at the end) insert –
- “(aa) any pension or other benefits payable under a scheme made under section 18A above;”.
- (3) In subsection (7), for “section 10 above” substitute “–
- (a) section 10 above, or
- (b) provision made under section 18A above that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 7 In section 28A (contributions in respect of Northern Ireland judges), at the end insert “or as a fee-paid judge in Northern Ireland (within the meaning given by section 18A)”.

# Pension Schemes Bill

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## B I L L

[\[AS AMENDED IN PUBLIC BILL COMMITTEE\]](#)

To make provision about pension schemes, including provision designed to encourage arrangements that offer people different levels of certainty in retirement or that involve different ways of sharing or pooling risk.

*Presented by Secretary Iain Duncan Smith,  
supported by  
the Prime Minister,  
the Deputy Prime Minister,  
Mr Chancellor of the Exchequer,  
Danny Alexander, Secretary Vince Cable  
and Steve Webb.*

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*Ordered, by The House of Commons,  
to be Printed, ~~26th June~~ [4 November](#)  
2014.*

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