

PENSIONS ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: State pension

Section 1: Category A and B retirement pensions: single contribution condition

105. At present, the contribution conditions for basic state pension and bereavement benefits are set out in paragraph 5 of Schedule 3 to the SSCBA1992. *Section 1* inserts a new paragraph 5A setting out the new single contribution condition that will apply in certain cases from 6 April 2010.
106. In order to achieve this:
- *Subsection (3)* introduces the new paragraph 5A (the single contribution condition for those reaching state pension age on or after 6 April 2010).
 - *Subsection (2)* makes a consequential amendment to paragraph 5.
 - *Subsection (4)* introduces *Part 1* of *Schedule 1* which will effect the required consequential amendments in respect of the changes made by this section.

Provisions of new Paragraph 5A of Schedule 3 to the SSCBA1992 as inserted by section 1

107. *Sub-paragraph (1)* sets out the cases in which the new single contribution condition will apply, as determined by when the contributor concerned reaches state pension age:
- A person reaching state pension age on or after 6 April 2010 will be entitled to a Category A pension on satisfying that condition; and
 - A spouse or civil partner of a person reaching state pension age on or after 6 April 2010 (or of a person who dies on or after that date without having reached that age) may substitute or inherit a Category B pension based on that person's Category A pension where the contributor concerned satisfied that condition.
108. *Sub-paragraph (2)* sets out the new condition. It requires that, in order to qualify for a full basic state pension, the contributor concerned must have paid or been credited with Class 1, 2 or 3 National Insurance contributions for at least 30 "qualifying years" in their working life. In the case of 1987-88 or a later year, it is also sufficient if the person has been credited with earnings. In addition, for each of those 30 years, the person's earnings factor must be not less than the qualifying earnings factor for that year.
109. *Sub-paragraph (3)* defines how earnings factors are to be calculated for these purposes. The earnings factor will be calculated with regard to Class 1 contributions paid or treated as paid, or earnings credited, up to the upper earnings limit, together with any Class 2 or 3 contributions for the year.
110. *Sub-paragraph (4)* enables regulations to be made which modify paragraph 5A(2) and (3) so they will not prevent people insured under the 1946 and 1965 National Insurance

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Acts who reach state pension age from 6 April 2010 qualifying for basic state pension (Category A and/or Category B) under the new single contribution condition.

Schedule 1: Part 1: Category A and B retirement pension: single contribution condition

111. *Paragraphs 1 to 3* amend sections 44 (Category A pension), 48A (Category B pension for a married person or civil partner) and 48B (Category B pension for a surviving spouse or civil partner) of the SSCBA1992 to ensure that:
- people reaching state pension age before 6 April 2010 would continue to be entitled to the benefits identified in paragraph 5 of Schedule 3 to the SSCBA1992 on satisfaction by the contributor concerned of the two contribution conditions set out in that paragraph; and
 - people who reach state pension age on or after 6 April 2010 would be entitled to a Category A pension on satisfaction of the single contribution condition in the new paragraph 5A of Schedule 3 to the SSCBA1992; and
 - in the case of Category B pensions, entitlement would be calculated by reference to the new paragraph 5A of Schedule 3 to the SSCBA1992 for people who are:
 - a) married to or in a civil partnership with someone who reaches pensionable age on or after 6 April 2010; or
 - b) the surviving spouse or civil partner of someone who died on or after 6 April 2010 and did not reach state pension age before that date.
112. *Paragraph 4* amends section 60 of the SSCBA1992. This section allows provision to be made for those who do not satisfy the contribution conditions for certain benefits. As similar provision is made by new section 60A (see below) where only the new single contribution condition needs to be satisfied, it is necessary to exclude the cases where the single condition applies from the scope of section 60.
113. *Paragraph 5* introduces new section 60A. This applies to those cases where only the single contribution condition needs to be satisfied as set out in the new paragraph 5A of Schedule 3.
114. Subsection (1) of this section provides that the section applies where a person does not satisfy the single contribution condition in order to be entitled to a Category A or Category B pension.
115. Subsection (2) of this section provides a regulation-making power to allow a person who would have been entitled to benefit by virtue of paragraph 5A, Schedule 3 to the SSCBA1992 but for the fact that the contributor (defined in subsection (4)) has not acquired the full 30 qualifying years nevertheless to be entitled to a prescribed proportion of a full basic state pension for each qualifying year the contributor has built up (defined in subsection (3)). The calculation for determining the pro-rated amount of basic state pension entitlement in these cases will be set out in regulations. This means that the 25% de minimis rule (see *regulation 6(1)* of the [Social Security \(Widow's Benefit and Retirement Pensions\) Regulations 1979 \(S.I.1979/642\)](#)), which applies to benefits calculated under paragraph 5, Schedule 3 to the SSCBA1992, will not apply to the benefits to which this section applies.
116. Subsection (5) of this section would allow the widow, widower or surviving civil partner of an employed earner who dies on or after 6 April 2010 as a result of an industrial injury benefit (section 94(1) of the SSCBA1992) or a prescribed disease or injury (section 108(1)) to inherit a Category B pension (section 48B), even if the contribution condition set out at paragraph 5A of Schedule 3 to the SSCBA1992 is not satisfied by the deceased employed earner. This makes equivalent provision to that made by section 60.

117. Subsection (6) of this section provides that the reference to the single contribution condition in subsections (1) and (3) includes a reference to that condition as modified by regulations under paragraph 5A(4) of Schedule 3 (i.e. regulations modifying the condition for the purposes of persons who were insured under the National Insurance Act of 1946 or 1965 - see paragraph 110 above).

Section 2: Category B retirement pension: removal of restriction on entitlement

118. *Subsection (2)* of this section amends subsections (2)(a) and (2B)(a) of section 48A of the SSCBA1992 to remove the restriction which currently prevents a person from becoming entitled to a Category B pension derived from their spouse's or civil partner's contributions where their spouse or civil partner has not made a claim for their Category A pension.
119. The effect of the amendment is to enable, subject to the relevant contribution condition being met, a married person or a person in a civil partnership to become entitled to a Category B pension from the point at which both they and their spouse or civil partner have reached state pension age, regardless of whether the spouse or civil partner has made a claim for their Category A pension.
120. *Subsection (3)* omits section 48(5) which restricts payability of a Category B pension to periods after the spouse or civil partner's first payday for his or her Category A pension.
121. *Subsection (4)* introduces the consequential amendments in *Part 2* of *Schedule 1*.
122. *Subsection (5)* makes provision for *section 2* and *Part 2* of *Schedule 1* to have effect from 6 April 2010. By *subsection (6)*, the amendments to section 48A apply to a person who attains state pension age before that date as well as to a person who attains state pension age on or after that date.

Schedule 1: Part 2: Category B retirement pension: removal of restriction on entitlement

123. *Part 2* of this Schedule makes amendments to Part 2 of the SSCBA1992 consequential on *section 2*.
124. *Paragraph 6* amends section 54 of that Act by omitting subsection (3), which currently prevents a spouse or civil partner from electing to cancel his or her Category A pension where this is already in payment without the consent of the other party to the marriage or civil partnership. The provision becomes redundant by virtue of the amendments made to section 48A by *section 2*.
125. *Paragraph 7* amends subsection (3) of section 55 of that Act so that a person's entitlement to their Category B pension is no longer deemed to be deferred where the person's spouse or civil partner has not made a claim for his or her Category A pension.
126. *Paragraph 8* amends paragraph 8 of Schedule 5 to the Act by omitting subparagraph (3), which also becomes redundant as a result of the amendments made to section 48A by *section 2*.

Section 3: Contributions credits for relevant parents and carers

127. *Section 3* amends the SSCBA1992 to replace the existing home responsibilities protection with new crediting arrangements for parents, approved foster parents and carers reaching state pension age on or after 6 April 2010.
128. In order to achieve this *subsection (1)* inserts new section 23A into the SSCBA1992.

Provisions of new section 23A

129. *Subsection (1)* provides that the new crediting arrangements for parents and carers apply to the following benefits:

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- a Category A pension for a pensioner who reaches state pension age on or after 6 April 2010;
 - a Category B pension for the spouse or civil partner of a person reaching state pension age on or after 6 April 2010 (or who dies on or after that date without reaching that age); and
 - widowed parent's allowance or bereavement allowance payable to the surviving spouse of a person who dies on or after 6 April 2010 who has not yet reached state pension age. Entitlement to both benefits would be based on the deceased's contribution record.
130. *Subsection (2)* would allow the contributor concerned in relation to the benefits referred to in paragraph 129 above to be credited with a Class 3 National Insurance credit for each week after 6 April 2010 in which they are a relevant carer as defined in *subsection (3)*.
131. *Subsection (3)* defines a person as a relevant carer in respect of a week if, they are:
- a parent or guardian awarded child benefit for a child aged under 12 for any part of that week;
 - a foster parent for any part of that week; or
 - “engaged in caring” in that week. This is intended to be defined in regulations to cover someone who provides care for one or more severely disabled persons for at least 20 hours a week. The regulations are also intended to allow a person caring for a child under 12 to be treated as engaged in caring in circumstances where there is another carer for that child who is entitled to credits by virtue of *subsection (3)(a)* but who does not need them, because the tax year in question is already a qualifying year for that person.
132. *Subsection (4)* provides a regulation-making power to make entitlement to the credits for foster parents and those engaged in caring to be conditional on the application process being complied with, and on the prescribed information being provided. The information that will be required is information that would confirm that a person is undertaking qualifying care.
133. *Subsections (5) to (7)* allow contributors reaching state pension age, or dying on or after 6 April 2010 to have any complete years of home responsibilities protection, acquired before 6 April 2010, converted to an equivalent number of fully credited years for the purposes of entitlement to basic state pension and bereavement benefits. The number of home responsibilities protection years which may be converted to qualifying years will be subject to upper limits broadly along the lines of the existing rules. In the case of a Category A or B pension that limit is 22 years. In the case of widowed parent's allowance or bereavement allowance it is half the requisite number of years in the contributor's working life.
134. *Subsection (8)* provides that in circumstances where a week straddles two tax years, a credit for that week would be attributed to the tax year in which the week begins.
135. *Subsection (9)* enacts both definitions and regulation-making powers for the purposes of new section 23A. In particular, it enables “foster parent” to be defined in regulations. The intention is to mirror the definition in regulation 1(2)(a) of the [Social Security Pensions \(Home Responsibilities\) Regulations 1994 \(SI 1994/ 704\)](#).

Schedule 1: Part 3: Contributions credits for relevant parents and carers

136. *Paragraph 9* inserts new section 22(5A) in the SSCBA1992 to make reference to the new arrangements in section 23A which provide for the crediting of Class 3 contributions.

137. *Paragraph 10* amends section 176 of the SSCBA1992 to provide that the regulations made using the power in section 23A(3)(c) will be subject to the affirmative procedure on first use.
138. *Paragraph 11* makes a consequential amendment to Part 1 of Schedule 1 to the Welfare Reform Act 2007 so that the definition of "benefit" extends to contributions credits for relevant carers under section 23A of the SSCBA1992.

Section 4: Category A and C retirement pensions: abolition of adult dependency increases

139. *Subsections (1) and (2)* provide that sections 83, 84 and 85 of the SSCBA1992 are to cease to apply from 6 April 2010. The SSCBA1992 allows for the weekly rate of Category A or Category C pension to be increased in respect of a pensioner's wife (section 83), civil partner (section 83A), husband (section 84) or person having care of his or her child/children (section 85). Section 83A was intended, by virtue of paragraph 2 of Schedule 4 to the PA1995, to provide for increases in respect of spouses and civil partners on an equal footing from 6 April 2010.
140. *Subsections (3) and (4)* provide for the consequential amendments in *Part 4 of Schedule 1* (see below) to have effect from 6 April 2010.
141. *Subsections (5), (6) and (7)* provide that the repeal of sections 83, 84 and 85 under *subsection (1)* and the consequential amendments referred to in *subsection (3)* are not to apply in certain cases before 5 April 2020. This saving will apply in relation to a person who has claimed an increase of pension under those provisions before 6 April 2010 and who immediately before that date is either:
- entitled to the increase; or
 - has underlying entitlement to it by virtue of section 92 where the dependant's earnings fluctuate;
- unless the person otherwise ceases to be entitled to the increase (other than as a result of a fluctuation in the dependant's earnings) or, in the case of an increase paid in respect of a wife, the wife reaches state pension age and becomes eligible for a Category B pension.

Schedule 1: Part 4: Category A and C retirement pensions: abolition of adult dependency increases

142. *Paragraphs 12 and 13* of this Schedule remove references to adult dependency increases in the following sections of the SSCBA1992, which are redundant following the abolition of those increases:
- Section 30B(3)(b) which deals with the rate of short-term incapacity benefit payable to a person who has attained state pension age; and
 - Section 78(4)(d) which deals with non-contributory Category C and D pensions.
143. *Paragraphs 14, 15 and 16* remove redundant references to adult dependency increases in the following sections of the SSCBA1992:
- Section 88, which provides that a person cannot be entitled to an adult dependency increase in respect of more than one person for the same period;
 - Section 89, which provides for occupational and personal pensions to be treated as earnings for the purposes of the conditions of entitlement to adult dependency increases; and

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- Section 114, which provides for regulations to prescribe the circumstances in which one person can be taken to be maintaining another for the purposes of establishing entitlement to an adult dependency increase.
144. *Paragraph 17* removes the redundant references to section 83(2) and (3) in section 149(3) of the SSCBA1992 which deals with circumstances in which a person is treated as being entitled to an adult dependency increase for the purposes of establishing entitlement to a Christmas bonus.
145. *Paragraph 18* amends paragraphs 5 and 6 of Part 4 of Schedule 4 to the SSCBA1992 to remove redundant references to the rates at which adult dependency increases of Category A and C pensions are payable.

Section 5: Up-rating of basic pension etc. and standard minimum guarantee by reference to earnings

146. *Section 5* inserts a new section 150A into the SSAA1992. *Subsection (1)* of new section 150A requires the Secretary of State to review the amount of the basic state pension in a Category A, Category B, Category C or Category D pension, the amount of the standard minimum guarantee in State Pension Credit, and widow's pension and widower's pension in Industrial Death Benefit, to determine whether they have kept their value in relation to the general level of earnings.
147. Under *subsection (2)*, where the Secretary of State considers the level of earnings has increased during the review period, he will be required to lay a draft of an up-rating order before Parliament increasing the amounts referred to in paragraph 146 above by a percentage which is not less than the relevant increase in earnings over the review period.
148. *Subsection (3)* will allow the Secretary of State not to increase the amounts of these benefits where it appears to him that the amount of the increase would be inconsiderable.
149. *Subsection (4)* will allow for the rounding up or down of any increase. In practice, this would normally mean rounding to the nearest five pence.
150. *Subsection (5)* will require a draft order to be accompanied by a copy of a report by the Government Actuary or the Deputy Government Actuary giving their opinion on the likely effect of the order on the National Insurance Fund, so far as the order relates to sums payable out of that Fund.
151. *Subsection (6)* will require the up-rating order to be made in the form of the draft once it is approved by Parliament.
152. *Subsection (7)* provides for the date when the increases made by the up-rating order are to come into force.
153. *Subsection (8)* gives the Secretary of State discretion as to how to estimate the general level of earnings. In practice this means the Secretary of State will be able to decide which measure or index of earnings growth shall be used for the purposes of earnings uprating.
154. Where a draft up-rating order under new section 150A of the SSAA1992 is combined with a draft up-rating order under section 150 of that Act, *subsection (9)* allows for a combined report by the Government Actuary or the Deputy Government Actuary.
155. *Subsection (2)* of *section 5* introduces the consequential and related amendments in *Part 5* of *Schedule 1*.
156. *Subsection (3)* of *section 5* makes provision for the tax years in relation to which the up-rating of the basic state pension and widow's and widower's pension in Industrial Death Benefit is to have effect. It provides that the first review carried out under

section 150A(1) is to be carried out in 'the designated tax year'. *Subsection (4)* of section 5 requires the Secretary of State to designate 'the designated tax year' by way of an order made before 1st April 2011. *Subsection (5)* provides that in setting 'the designated tax year' the Secretary of State must ensure that the tax year following the designated tax year is a tax year that begins before the 'relevant dissolution date'. *Subsection (6)* defines 'the relevant dissolution date' by reference to the maximum period for which a Parliament may exist. This is five years.

157. For the standard minimum guarantee in State Pension Credit, *subsection (7)* ensures that the new section 150A has effect in relation to the tax year in which the Act is enacted and subsequent tax years. Accordingly, as the Act received Royal Assent in the tax year 2007-08, the first review in respect of the standard minimum guarantee will take place in that year, with the first order up-rating the guarantee by earnings having effect for the tax year 2008-09.

Section 6: Preservation of link with prices in case of other benefits

158. This section amends section 150 of the SSAA1992 and sections 39 and 39C of the SSCBA1992.
159. *Subsections (2), (3) and (4)* amend sections 150(1), (3) and (7) respectively of the SSAA1992 to remove the basic state pension, standard minimum guarantee and widow's and widower's pensions in industrial death benefit from that section, which provides for up-rating by reference to prices. *Subsections (2) and (3)* also amend section 150(1) and (3) so that the rate of widowed mother's allowance, widow's pension, widowed parent's allowance and bereavement allowance can continue to be up-rated in line with prices under that section.
160. *Subsections (5) and (6)* amend sections 39 and 39C respectively of the SSCBA1992. The effect of the amendments is to empower the Secretary of State to prescribe by regulations the rate of widowed mother's allowance, widow's pension and widowed parent's allowance. The weekly amount of bereavement allowance will equal the prescribed rate of widowed parent's allowance.
161. *Subsection (9)* will ensure that those regulation-making powers are used to provide that the rate of widowed mother's allowance, widow's pension, widowed parent's allowance and bereavement allowance will equal the amount of the basic state pension up to the point at which the basic state pension is uprated in line with earnings.
162. Under *subsection (7)* the amendments relating to the basic state pension, widowed mother's allowance, widow's pension, widowed parent's allowance, bereavement allowance and widow's/widower's pensions in industrial death benefit will have effect in relation to the designated tax year specified under *subsection (4)* of *section 5* and subsequent tax years. Under *subsection (8)* the amendments relating to the standard minimum guarantee will have effect in relation to the tax year in which the Act was passed (ie 2007-08) and subsequent tax years.

Section 7: Removal of link between lower earnings limit and basic pension

163. This section amends sections 5 and 176(1) of the SSCBA1992. The effect of the amendments made by *subsections (2) and (3)* of the section is to remove the link between the amount of the lower earnings limit and the weekly rate of the basic state pension in a Category A pension, thereby ensuring that the amount of the lower earnings limit will not be required to automatically increase in line with earnings. Instead, any future increase in the lower earnings limit will be at the discretion of the Treasury.
164. *Subsection (4)* provides that these amendments have effect in the tax year following the designated tax year (i.e. as from the first year in which the basic pension is uprated by earnings) and subsequent tax years.

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165. *Subsection (5)* provides that regulations setting the rate of the lower earnings limit in relation to years following the designated tax year will be subject to the affirmative procedure.

***Section 8: Removal of link between lower earnings limit and basic pension:
Northern Ireland***

166. This section makes the same changes to sections 5 and 172 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as section 7 makes to sections 5 and 176(1) of the SSCBA1992.

***Schedule 1: Part 5: Up-rating of basic pension etc. and standard minimum
guarantee by reference to earnings***

167. *Part 5* of this Schedule amends the SSCBA1992, the SSAA1992 and the Welfare Reform Act 2007. The amendments are consequential on the introduction of new section 150A of the latter Act and their general effect is to ensure that certain provisions that currently apply in relation to the existing up-rating machinery in section 150 will also apply in relation to the new up-rating machinery in section 150A.

Section 9: Deemed earnings factors for purposes of additional pension

168. *Subsection (1)* amends the SSCBA1992 by introducing new sections 44B and 44C. *Subsection (2)* introduces *Part 6* of *Schedule 1* which contains consequential amendments relating to the deemed earnings factors.

Provisions of new Section 44B – Deemed earnings factors from 2010-2011 onwards

169. *Subsection (1)* ensures that deemed earnings factors can only be accrued under the new provisions for tax years from 2010-11 onwards. This means that the new provisions only apply to those who have not yet reached state pension age at that time (a person cannot continue to build up entitlement to state second pension once they have reached state pension age).
170. *Subsection (2)* provides that an individual who satisfies any of the new conditions A, B or C set out at *subsections (3), (4)* and *(5)* would be deemed to be earning at the low earnings threshold.
171. *Subsection (3)* introduces Condition A which is satisfied if an individual has earnings at or above the qualifying earnings factor (52 times the lower earnings limit) but less than the low earnings threshold.
172. *Subsection (4)* introduces Condition B which is satisfied if an individual has earnings at less than the qualifying earnings factor but has some of the new earnings factor credits (see section 44C – paragraphs 177-183 refer) which may be added to their earnings to bring them up to the qualifying earnings factor.
173. *Subsection (5)* introduces Condition C which is satisfied if an individual has 52 earnings factor credits by virtue of section 44C. This would equate to the qualifying earnings factor – see paragraph 178 below.
174. *Subsection (6)* ensures that from the first year in which the flat rate of accrual is introduced for the additional pension (“flat rate introduction year”), the effect of the new section 44B will simply be to provide deemed earnings factors above the qualifying earnings factor but below the low earnings threshold, as that will be sufficient to enable them to accrue state second pension at the new weekly flat rate (£1.40, subject to up-rating). Condition A will not operate at that stage, since the persons to whom it applies will already have actual earnings over the qualifying earnings factor.

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175. *Subsection (7)(a)* defines the “applicable limit”, which is the upper earnings limit from 2010-11 until the flat rate introduction year. At that point, the “applicable limit” becomes the upper accrual point (see *section 12(1)(b)* and *(2)(b)*).
176. *Subsection (7)(b)* defines the low earnings threshold by reference to the definition in section 44A of the SSCBA1992.
177. *Subsection (7)(c)* makes it clear that the earnings factors described in Conditions A and B are derived from primary Class 1 employed earnings below the applicable limit.

Provisions of new section 44C – Earnings Factor Credits

178. New section 44C applies for the purposes of Conditions B and C specified in section 44B(4) and (5) for tax years from 2010-11 onwards (*subsection (1)*).
179. *Subsection (2)* provides that an individual may enhance their earning factors in any tax year if, for any week in that year, the person is eligible (as specified by *subsection (3)*). For each week in which the person is eligible, he or she is entitled to an earnings factor credit equal to 1/52 of the qualifying earnings factor for that year (i.e. the lower earnings limit).
180. *Subsection (3)* specifies the persons who are eligible for earnings enhancement. They are:
- *Paragraph (a)* – relevant carers (i.e. those entitled to credits for basic state pension purposes under new section 23A described in paragraphs 129-135 above);
 - *Paragraph (b)* – broadly, persons in receipt of carer’s allowance;
 - *Paragraph (c)* – persons to whom severe disablement allowance is payable;
 - *Paragraph (d)* – broadly, persons to whom long term incapacity benefit is payable (incapacity benefit will be replaced by the employment and support allowance provided for by the Welfare Reform Act 2007); and
 - *Paragraph (e)* - persons satisfying such conditions as may be set out in regulations. This power will allow persons receiving other benefits to be eligible for earnings enhancement. For example, this could be used to award earnings factor credits to employment support allowance recipients.
181. *Subsection (4)* cross-refers to the meaning of occupational pension scheme and personal pension scheme as set out at section 30DD. A person is in effect deemed to be receiving long term incapacity benefit for the purposes of *subsection (3)(d)* if that benefit is reduced to nil by virtue of receiving payments from such schemes.
182. *Subsection (5)* ensures that an individual who has some earnings from paid contributions is only entitled to the number of earnings factor credits required to bring that person up to the qualifying earnings factor.
183. *Subsection (6)* provides that earnings factor credits that fall within a week that straddles the change in tax years are attributed to the tax year in which the week begins.
184. *Subsection (7)* defines terms used in this section and in section 44B. In particular, it has the effect that one earnings factor credit is equal to 1/52nd of the qualifying earnings factor (see *subsection (2)*).

Schedule 1: Part 6: Deemed earnings factors for purposes of additional pension

185. *Part 6* of *Schedule 1* contains consequential amendments relating to deemed earnings factors. *Paragraph 33* ensures that the current provisions set out at section 22 of the SSCBA1992 do not affect the operation of the new provisions inserted by *section 9*.

186. *Paragraph 34* ensures that the current deemed earnings factors provisions at section 44A(1) to (4), which are replaced by the new provision made by *section 9*, apply only to tax years prior to 2010-11; and that the labour market attachment test will not apply to those on long-term incapacity benefit reaching state pension age on or after 6 April 2010.

Section 10: Additional pension: removal of accrual bands from 2010 – 11

187. This section amends Schedule 4A to the SSCBA1992, which contains the rules for the calculation of additional state pension. As the first step towards introducing a flat rate additional pension, the section removes the ‘Band 3’ accrual rate (which is 20%) on earnings factors between the upper earnings threshold and the upper earnings limit currently used in calculating state second pension, starting from the 2010–11 tax year.
188. *Subsection (2)(a)* restricts the existing 3-band structure to accruals for tax years up to and including 2009-10. *Subsection (2)(b)* introduces the new two accrual band formulation for the calculation of an individual’s annual surplus earnings factor from 2010-11. A surplus earnings factor for earnings between the lower earnings limit and the low earnings threshold will continue to be based on 40% of relevant earnings. However, surplus earnings factors for any subsequent earnings between the low earnings threshold and the “annual upper earnings limit” will be based on 10% of relevant earnings. *Subsection (2)(c)* defines the annual upper earnings limit for additional pension purposes.
189. *Subsection (3)* replicates the provisions of *subsection (2)* in respect of the calculation of ‘contracted-out’ state second pension entitlement.
190. *Subsection (4)* replicates the provisions of *subsection (2)* in respect of the calculation of the amount available by way of top-up for members of an appropriate personal pension scheme (i.e. a contracted-out personal scheme).
191. *Subsection (5)* defines “AUEL” for the purpose of the amendments in *subsections (2)* to *(4)*.
192. *Subsection (6)* amends the heading of Schedule 4A.

Section 11: Additional pension: simplified accrual rates as from flat rate introduction year

193. *Subsections (2)* and *(3)* amend section 45 of the SSCBA1992 to provide for the second stage in the calculation of the reformed state second pension, using the flat rate which is set out in the new Schedule 4B to the SSCBA1992 and described above at paragraph 174.
194. *Subsection (4)* amends section 122 of the SSCBA1992 to define “the flat rate introduction year” – the year from which the reformed state second pension calculation will commence. It will be the tax year which is designated as such by the Secretary of State by order.
195. *Subsection (5)* introduces *Schedule 2*. Part 1 inserts new Schedule 4B into the SSCBA1992 and Part 2 makes provision to uprate (in line with earnings) the flat rate accrual amount introduced by the new Schedule 4B by inserting section 148AA into the SSAA1992 (see paragraph 213 below). Part 3 makes consequential and related amendments.

Schedule 2: Additional pension: simplified accrual rates

Part 1 - New Schedule 4B to the SSCBA

196. *Paragraph 1* of Schedule 2 inserts new Schedule 4B into SSCBA1992 to provide for the new method of calculation of additional state pension.

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197. Paragraph 1 of new Schedule 4B provides that the amount of additional state pension accrued for the years from the flat rate introduction year onwards is to be the aggregate of the appropriate amounts in respect of each year in which the pensioner was in contracted-in employment, calculated in accordance with Part 2 of Schedule 4B (see paragraphs 198-202 below) and the appropriate amounts in respect of each year in which the pensioner was in contracted-out employment, calculated in accordance with Part 3 of the Schedule (see paragraphs 203-209).
198. Paragraphs 2 to 5 (Part 2) set out the calculation for the amount of additional state pension in respect of years of contracted-in employment.
199. Paragraph 2 provides that Part 2 applies to a tax year if the “contracted-out condition” (see paragraph 12) is not satisfied for any tax week in the year.
200. Paragraph 3 provides that the appropriate amount for the year is to be either the flat rate amount where a person’s total earnings factor does not exceed the low earnings threshold or, where there is a surplus earnings factor exceeding the low earnings threshold, the aggregate of the flat rate and earnings related amounts.
201. Paragraph 4 provides that the ‘flat rate amount’ of additional state pension will be the ‘FRAA’ – £72.80 initially and then as uprated annually under new section 148AA of the SSAA1992 (see paragraph 213 below).
202. Paragraph 5 provides that the ‘earnings related amount’ is calculated by:
- identifying the surplus earnings between the low earnings threshold and the upper accrual point; then
 - multiplying that figure by the relevant amount under the last order under section 148 of the SSAA1992; then
 - multiplying that amount by 10%; then
 - dividing that amount by 44.
203. Paragraphs 6 to 10 (Part 3) set out the calculation for the amount of additional state pension in respect of years of contracted-out employment.
204. Paragraph 6 provides that Part 3 applies to a tax year if the contracted-out condition is satisfied for each tax week in the year.
205. Paragraph 7 prescribes that the appropriate amount for the year is to be calculated by subtracting Amount B from Amount A.
206. Paragraph 8 provides that Amount A is the ‘flat rate amount’ of additional state pension, i.e. the ‘FRAA’ – as uprated annually under new section 148AA of the SSAA1992, where there is no surplus above the low earnings threshold.
207. Paragraph 9 provides that where there is a surplus exceeding the low earnings threshold, Amount A is to be calculated by:
- identifying the assumed surplus for the relevant year between the low earnings threshold and the upper accrual point; then
 - multiplying that figure by the relevant amount under the last order under section 148 of the SSAA1992; then
 - multiplying that amount by 10%; then
 - dividing that amount by 44; then
 - adding this amount to the flat rate amount for the year (paragraph 8 refers).
208. Paragraph 10 provides that Amount B is to be calculated by:

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- identifying the assumed surplus for the relevant year between the qualifying earnings factor and the upper accrual point; then
 - multiplying that figure by the relevant amount under the last order under section 148 of the SSAA1992; then
 - multiplying that amount by 20%; then
 - dividing that amount by the number of years in the pensioner's working life.
209. [Paragraph 10\(2\)](#) provides that section 44B of the SSCBA1992 (deemed earnings factors) is to be ignored in applying section 44(6) for the purposes of calculating Amount B. This ensures that a person's actual earnings factors are used in the calculation, thereby producing an amount by way of top-up to the benefits provided by their private pension scheme.
210. [Paragraph 11](#) allows the Secretary of State to make regulations so as to vary any of the calculations described above in circumstances where a person has a combination of contracted-in and contracted-out employment within a tax year or where a contracted-out pension scheme makes arrangements to buy back state scheme rights of their members.
211. [Paragraph 12](#) defines the terms "assumed surplus", "contracted-out condition", "the FRAA" "the LET", "the QEF", "relevant year", and "the UAP".
212. [Paragraph 13](#) further defines "the FRAA".
- Part 2 - - Revaluation of Flat Rate Accrual Amount*
213. [Paragraph 2](#) of this Schedule inserts new section 148AA into the SSAA1992.
214. Subsection (1) of the new section requires the Secretary of State to review the general level of earnings in the tax year prior to the flat rate introduction year and in subsequent tax years.
215. Subsection (2) defines "review period".
216. Subsection (3) requires the Secretary of State to make an order under this section where the general level of earnings has increased over the review period.
217. Where a revaluation order is made, subsection (4) requires the FRAA to be increased by not less than the percentage by which the general level of earnings increased during the review period.
218. Subsection (5) refers to the initial rate of the FRAA at £72.80 per year, which equates to a weekly amount of £1.40.
219. Subsection (6) allows the amount of the FRAA as determined by *subsections (4) and (5)* to be rounded up or down as the Secretary of State considers appropriate.
220. Subsection (7) allows the Secretary of State not to increase the FRAA where an increase would be inconsiderable.
221. If the Secretary of State determines that he is not required to make an order under this section, subsection (8) requires the Secretary of State to lay a report before Parliament explaining his decision not to do so.
222. Subsection (9) allows the Secretary of State to estimate the general level of earnings as he sees fit. In practice this means the Secretary of State will be able to decide which measure or index of earnings growth is to be used for the purposes of earnings uprating.
223. Subsection (10) defines the terms "the flat rate introduction year" and "the FRAA".

Part 3 - Consequential and Related Amendments: Social Security Contributions and Benefits Act 1992 (c.4)

224. *Paragraph 3* amends section 39 of the SSCBA1992 to remove redundant references to Schedule 4A (which has no effect in the context of the benefits under section 39) and to repeal subsection (3) of that section (which no longer has any legal effect).
225. *Paragraph 4(3)* makes a clarificatory drafting amendment to section 39C of that Act.
226. *Paragraph 5* amends section 44 of that Act to insert the necessary references to the new State Second Pension accrual regime introduced by the new Schedule 4B. The effect is that from the flat rate introduction year, those accruing state second pension for the purpose of their entitlement to a Category A pension will do so under the new rules.
227. *Paragraph 6* inserts a new subsection (4) into section 46 of that Act, the effect of which is to provide that the component of widowed parent's allowance relating to state second pension will continue to be calculated under the existing regime set out in section 45 (and Schedule 4A) after the flat rate introduction year rather than under the new regime introduced by section 11 (and the new Schedule 4B). *Paragraph 4(2)* amends section 39C of that Act as a consequence of this.
228. *Paragraphs 7 to 10* amend respectively sections 48A, 48B, 48BB and 48C of that Act to insert the necessary references to the new state second pension accrual regime introduced by the new Schedule 4B. The effect is that from the flat rate introduction year, people bereaved after reaching state pension age will have their inherited state second pension entitlement in their Category B pension calculated under the new rules. The same will apply in respect of the state second pension component payable to bereavement allowance recipients.
229. *Paragraph 11* removes a redundant reference to section 39(1) in Schedule 4A to that Act to reflect the amendment made by paragraph 3.
230. *Paragraph 12* amends section 42 of the PSA1993 to make reference to the new Schedule 4B.

Section 12: Additional pension: upper accrual point

231. *Subsection (1)* amends section 22 of the SSCBA1992 to replace the reference to the upper earnings limit, which represents the current end point for additional pension accruals, with a reference to the new "applicable limit". Prior to the flat rate introduction year, the applicable limit will remain as the upper earnings limit. From the flat rate introduction year, however, the applicable limit will be the new "upper accrual point".
232. *Subsection (2)* amends section 44 of the SSCBA1992 in line with the provisions of *subsection (1)* to replace the upper earnings limit with the upper accrual point as the cap for earnings factors as from the beginning of the flat rate introduction year.
233. *Subsection (3)* amends section 122 of the SSCBA1992 to define the "upper accrual point". This is defined as an amount equivalent to the upper earnings limit multiplied by 52 for the flat rate introduction year, except that there is power for the Secretary of State by order to specify a different amount should the forecast earnings growth not result in the low earnings threshold and the upper accrual point converging before 2030.
234. *Subsection (4)* introduces *Part 7 of Schedule 1* which contains consequential amendments relating to the simplified accrual rates.
235. *Subsections (5) to (9)* allow the Secretary of State to abolish both the low earnings threshold and the upper accrual point when the two converge, which is expected to happen in around 2030. (This will happen because the low earnings threshold increases at each up-rating in line with average earnings while, in contrast, the upper accrual point upon introduction will remain a fixed amount.) *Subsection (5)* activates these provisions when the low earnings threshold would otherwise be of an amount not less

than the upper accrual point. At this time *subsection (6)* allows the Secretary of State by order to abolish both limits. *Subsections (7) and (8)* allow such an order to make any transitional or consequential amendments to primary legislation. *Subsection (9)* requires that any such abolition order must be approved by affirmative resolution of both Houses of Parliament. The effect of the convergence of the limits would be that, from that point, accruals for the state second pension would consist only of the flat rate accrual for any earnings factors over the qualifying earnings factor for the relevant year.

Schedule 1: Part 7: Additional pension: simplified accrual rates

- 236. *Paragraph 35* makes consequential amendments to section 176 of the SSCBA1992, so that any order setting the upper accrual point must be approved by affirmative resolution of both Houses of Parliament, and an order designating the flat rate introduction year will not be subject to any parliamentary procedure (like normal commencement orders).
- 237. *Paragraphs 36 to 39* make consequential amendments to the PSA1993 to cater for the introduction of the upper accrual point. The amendments are all in connection with contracting-out arrangements for defined benefit pension schemes.
- 238. *Paragraph 36* amends section 12B of that Act to prescribe the upper accrual point from the flat rate introduction year as the limit for calculation of qualifying earnings with regard to the reference scheme.
- 239. *Paragraph 37* amends section 41 of that Act to prescribe the upper accrual point from the flat rate introduction year as the limit for calculation of qualifying earnings with regard to reduced rates of Class 1 contributions and provide power for the Secretary of State by regulations to specify how the amount of National Insurance contributions is to be calculated on the range of earnings between the lower earnings limit and the new upper accrual point where a person has an unusual earnings pattern.
- 240. *Paragraph 38* amends section 181(1) of that Act to define “the flat rate introduction year” and the “upper accrual point”.
- 241. *Paragraph 39* amends Schedule 4 to that Act to prescribe the upper accrual point from the flat rate introduction year as the limit for calculation of qualifying earnings with regard to the calculation of reckonable earnings in priority in bankruptcy etc.

Section 13: Increase in pensionable age for men and women

- 242. The rules for determining state pension age are set out in Part 1 of Schedule 4 to PA1995. *Subsection (1)* of this section introduces *Schedule 3* (see below) which amends both section 126 of, and Schedule 4 to, the PA1995 so as to enact increases in state pension age. Under *subsection (3)* of *section 30* (*Commencement*: see page 66 below), the amendments made by *Schedule 3* come into force two months after the date of Royal Assent; but the first increase in state pension age, from 65 to 66, will be phased in between April 2024 and April 2026.
- 243. *Subsection (2)* introduces *Part 8* of *Schedule 1*, which contains consequential amendments relating to the increases in state pension age (see below): these take effect on 6 April 2024 (*subsection (3)*) i.e. when the phasing-in of the initial change from 65 to 66 commences.

Schedule 1: Part 8: Increase in pensionable age for men and women

- 244. *Paragraphs 40 to 43* of this Schedule make consequential amendments to the SSCBA1992. These take effect from April 2024 (see the note to *subsection (3)* of *section 13*).
- 245. *Paragraph 40* will allow the upper age limit for widow’s pension, which is currently 65, to align with rising state pension age. Widow’s pension is only payable to women

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who were widowed before 9 April 2001, and was replaced by bereavement benefit for men and women bereaved after that date.

246. *Paragraphs 41 and 42* relate to, respectively, the minimum age for entitlement to attendance allowance and the upper age limit for claiming disability living allowance (both 65). The amendments will align the present age thresholds with rising state pension age.
247. *Paragraph 43* relates to the qualifying conditions for the Christmas bonus. Where entitlement to the payment is by virtue of entitlement to a war disablement pension, the person is additionally required to have reached the age of 65. The amendment will align the qualifying age with rising state pension age in these cases.
248. *Paragraph 44* of this Schedule, which amends the State Pension Credit Act 2002, aligns the qualifying age for entitlement to the savings credit element (currently 65) with rising state pension age.

Schedule 3: Increase in pensionable age for men and women

249. This Schedule amends those provisions of the PA1995 which specify the dates on which men and women reach state pension age (referred to in the Act as pensionable age).
250. *Paragraphs 1 and 2* amend section 126 of that Act, which introduces Schedule 4 to that Act, to reflect the extended scope of that Schedule as amended by the Act.
251. *Paragraphs 3 and 4* amend Schedule 4 to the PA1995. *Paragraph 3* replaces the current heading to the Schedule to reflect the fact that, as amended, the provisions are no longer solely concerned with equalisation of state pension age. *Paragraph 4* amends paragraph 1 of that Schedule, which specifies the state pension ages for men and women respectively in a set of ‘rules’.
252. *Paragraph 4(2)* amends paragraph 1(1), which currently provides that a man attains state pension age when he reaches 65 years. The amendment limits this provision so that it applies only to men who are due to reach that age before 6 April 2024.
253. *Paragraph 4(3)* amends paragraph 1(3), which introduces the table setting out the state pension ages for women born after 5 April 1950 but before 6 April 1955, i.e. those already affected by the phasing-in of the increase in female state pension age from 60 to 65. The amendment is required as additional tables are introduced by these amendments (see also the amendment made by *paragraph 4(5)*).
254. *Paragraph 4(4)* substitutes paragraph 1(4), which currently provides that a woman born after 5 April 1955 has a state pension age of 65, to make provision for women corresponding to that for men made by the amendment at *paragraph 4(2)*.
255. *Paragraph 4(6)* adds paragraphs 1(5) to (10), which provide how and when state pension age is to be increased from 65 to 68.
256. *Paragraph 1(5)* introduces the table detailing how the first of the changes (from age 65 to 66) is to be phased in. These arrangements will apply to those who are due to reach age 65 in the period 6 April 2024 to 5 April 2025. The phasing arrangements mirror the approach already used to phase in the increase in state pension age for women where each increase of one year is phased in over two years. Dates of birth are grouped in one-month periods, with a common state pension age date (the 6th of the month) applying to everyone within that group. State pension age increases incrementally in steps of up to one month at a time - that is, those born between 6 April 1959 and 5 May 1959 will reach state pension age on 6 May 2024 (an increase of one month); those born in the following month (6 May 1959 to 5 June 1959) will reach state pension age on 6 July 2024 (an increase of between one and two months) and so on.
257. *Paragraph 1(6)* provides that state pension age will be 66 for those born in the period 6 April 1960 to 5 April 1968.

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258. Paragraph 1(7) sets out how the change in state pension age from 66 to 67 is to be phased in for those born in the period 6 April 1968 to 5 April 1969.
259. Paragraph 1(8) provides that state pension age will be 67 for those born in the period 6 April 1969 to 5 April 1977.
260. Paragraph 1(9) sets out how the change in state pension age from 67 to 68 is to be phased in for those born in the period 6 April 1977 to 5 April 1978.
261. Paragraph 1(10) provides that state pension age will be 68 for those born on or after 6 April 1978.

Part 2: Occupational and personal pension schemes

Section 14: Conversion of guaranteed minimum pensions

262. Section 13(1) of the PSA1993 requires a contracted-out scheme to make provision to pay a pension to a member from pensionable age of an amount no less than his guaranteed minimum, as specified under sections 14 to 16. Section 17(1) contains a requirement for the payment of a guaranteed minimum pension to a widow, widower, or surviving civil partner.
263. *Subsection (1) of section 14 of the Act allows a scheme to omit provision for a guaranteed minimum pension, as required under section 13(1) of the PSA1993, where certain conditions are satisfied.*
264. *Subsection (2) similarly allows a scheme to omit provision for a survivor's guaranteed minimum pension under section 17(1), where the specified conditions are met.*
265. *Subsection (3) sets out the conditions which a scheme must meet in order to be relieved of the liability to pay guaranteed minimum pensions (as well as the rules applying to transfers, scheme amendments and enforcement). This is achieved by the insertion of a number of new sections into the PSA1993. The inserted sections provide as follows:*
- Section 24A sets out definitions of terms used in sections 24B to 24H.
 - Section 24B specifies the conditions which a converting scheme must satisfy: actuarial equivalence of the value of members' conversion benefits with those they possessed pre-conversion; no reduction of pensions in payment; conversion benefits not to include money purchase benefits; survivors' benefits to be provided (see section 24D), and specified procedural requirements to be met (see section 24E).
 - Section 24C provides a power for regulations to be made concerning how actuarial equivalence is to be determined.
 - Section 24D sets out the detailed requirement for the scheme to provide conversion benefits which include provision for pension to be paid to a widow, widower or surviving civil partner following the death of the member.
 - Section 24E sets out requirements in relation to obtaining the agreement of the scheme's sponsoring employer, and providing information to members and survivors and to the Commissioners for HMRC about the guaranteed minimum pension conversion.
 - Section 24F provides a power for regulations to be made concerning conditions for transfers of pension rights out of a guaranteed minimum pension-converted scheme. *Subsection (3) provides that the trustees of a scheme which is not guaranteed minimum pension-converted are allowed, for the purpose of transferring a member's rights out of the scheme, to adjust the member's guaranteed cash equivalent to reflect rights that would have accrued on guaranteed minimum pension conversion, providing the member consents.*

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- Section 24G provides powers for trustees to amend schemes to facilitate guaranteed minimum pension conversion. *Subsection (4)* makes it clear that trustees may adjust rights under a scheme which is being wound up in order to reflect what would have happened on guaranteed minimum pension conversion.
 - Section 24H provides powers for the Pensions Regulator in respect of enforcing the conditions for guaranteed minimum pension conversion, and provides for the power under section 10 of the PA1995 (civil penalties) to apply to trustees undertaking a guaranteed minimum pension conversion.
266. *Subsection (5)* of section 14 inserts provisions into section 47 of the PSA1993 in order to make clear that a person who has had his guaranteed minimum pension converted shall continue to be treated as entitled to that guaranteed minimum pension for the purpose of calculating entitlement to additional state pension (the 'contracted out deduction').
267. *Subsections (8)* and *(9)* of section 14 ensure the continuation of the partial protection against inflation of GMP increases included in the payments of state retirement pension where a person has their GMP converted.
268. *Subsection (10)* of section 14 concerns the situation where a person with an increase to his guaranteed minimum pension such as is mentioned in *subsection (8)* has his GMP converted prior to his death. This subsection ensures that his widow, widower or surviving civil partner will continue to have entitlement to certain GMP additions awarded with the survivor's state retirement pension, and that these additions will be protected against inflation.
269. *Subsection (12)* of section 14 provides that regulations made under the new section 24B (5) - the provision of survivor benefits post-conversion - are subject to the affirmative procedure.

Section 15: Abolition of contracting out for defined contribution pension schemes

270. *Subsection (1)* provides that contracting-out certificates for money purchase occupational pension schemes and appropriate scheme certificates (i.e. contracting-out certificates for personal pension schemes) will be cancelled from the date that this subsection is brought into force ("the abolition date").
271. *Subsection (2)* defines various terms.
272. *Subsection (3)* introduces *Schedule 4. Parts 1* and *2* of the Schedule contain amendments, mostly to the PSA1993, that arise from the abolition of contracting-out on a defined contribution basis and the removal of certain rules applying to protected rights which will take effect on the abolition date. *Part 2* of the Schedule contains amendments relating to the abolition of contracting-out which can be brought into force at a later date. The purpose of bringing the amendments in *Part 2* of the Schedule into force at a later date is to ensure that the existing statutory mechanisms for HMRC to deal with administrative matters concerning the contracted-out rebate and certification of schemes etc. remain in place until any matters outstanding at the date of abolition of COMPs and APPs have been dealt with before the amendments are brought into force. *Part 3* of the Schedule contains saving provisions relating to amendments made under *Part 1* of the Schedule. As with *Part 2*, the purpose of *Part 3* is to ensure that any administrative matters relating to a scheme's contracted-out status prior to the date of abolition can be completed after that date.
273. *Subsection (4)* provides for the consequential amendments contained in *Part 1* of *Schedule 4* to have effect from the abolition date (but where any powers to make regulations are conferred by the amendments, such powers may be exercised before that date so as come into force on that date).

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274. *Subsection (5)* provides a regulation-making power to allow for consequential etc. provision to be made if required as a result of the abolition of contracting-out for money purchase schemes and personal pension schemes, or as a result of the amendment, repeal or revocation of any protected rights provisions.
275. *Subsection (6)* provides that the power contained in *subsection (5)* can be used to amend, repeal or revoke any provision of any Act or subordinate legislation whenever passed.
276. *Subsection (7)* specifies that any use of the power in *subsection (5)* to modify primary legislation is subject to affirmative resolution.
277. *Subsection (8)* provides that any other use of the power in *subsection (5)* is subject to the negative resolution procedure.

Schedule 4: Abolition of contracting-out for defined contribution pension schemes

Part 1

278. The amendments in this part of the Schedule will take effect from the date on which COMP and APP contracting-out certificates are cancelled by virtue of *section 15(1)* of the Act (“the abolition date”).

Amendments to Pension Schemes Act 1993

279. *Paragraph 2* amends section 7 (issue of contracting-out and appropriate scheme certificates). As a result of the amendment of subsection (1), HMRC can no longer issue certificates stating that personal pension schemes are appropriate schemes. In addition, when read with the amendments to section 9, the effect is that HMRC can no longer issue a contracting-out certificate in respect of a money purchase occupational pension scheme. Subsections (4) to (6) are omitted to reflect the fact that appropriate scheme certificates can no longer be issued.
280. *Paragraph 3* amends the definition of “contracted-out employment” in section 8(1) to reflect the fact that from the abolition date a money purchase occupational pension scheme can no longer be contracted-out in relation to an earner’s employment. *Paragraph 3(3)* inserts a new subsection (1A) into section 8. New subsection (1A) includes an amended definition of contracted-out employment by reference to a money purchase scheme. This definition now only relates to periods of “contracted-out employment” before the abolition date. This historical definition is required because, although after the abolition date it will no longer be possible for an earner to be in contracted-out employment by reference to a COMP, such periods will continue to be relevant for the calculation of a person’s additional pension. The definition will also be needed during the period immediately after the abolition date for dealing with matters relating to periods before that date which are still outstanding at the date of abolition e.g. contracted-out rebates.
281. *Paragraph 3(4)* amends section 8(2) to reflect the fact that section 42A is being repealed.
282. *Paragraph 4* contains amendments to section 9 (requirements for certification of schemes). Section 9(3), which deals with requirements for a money purchase scheme to be contracted-out, is omitted. Section 9(5), which deals with the requirements for a personal pension scheme to be contracted out, is also omitted. Consequential amendments are made to section 9(6) (which deals with relevant requirements for contracted-out and appropriate schemes).
283. *Paragraph 5* amends section 10 (protected rights). Section 10(3)(a) is amended to reflect the fact that the definition of “minimum contributions” is to be repealed.
284. *Paragraph 6* omits section 12 (determination of basis on which scheme is contracted-out) to reflect the fact that it will no longer be necessary for certificates to state whether

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a scheme is contracted-out by virtue of subsection (2) or (3) of section 9, since it will only be possible for schemes to contract out by virtue of section 9(2) (contracting-out requirements for salary related occupational schemes).

285. *Paragraph 7* amends section 20 (transfer of accrued rights). Section 20(3) has been amended to include a reference to the new section 25A inserted by paragraph 9.
286. *Paragraph 8* replaces the cross-heading before section 26 with “Requirements for schemes with members with protected rights”.
287. *Paragraph 9* inserts a new section 25A into the PSA1993. New section 25A applies to money purchase occupational pension schemes which ceased to be contracted-out as a result of section 15(1) of the Act, as well as to personal pension schemes which cease to be appropriate schemes as a result of the same provision. For as long as people have protected rights under such schemes, or are entitled to any benefit giving effect to such rights, new section 25A(3) requires such schemes to continue to comply with sections 26 to 32 (which such schemes would currently be required to comply with in order to be contracted-out) and prescribed requirements (i.e. the requirements which are currently imposed in relation to COMPs and APPs under section 9(3)). It also ensures that the new limited requirements relating to giving effect to protected rights apply to any pension scheme to which protected rights have been transferred.
288. *Paragraph 10* inserts a new section 27A into the 1993 Act. The new section 27A has the effect of retaining the rule that requires provision to be made from protected rights for a surviving spouse or civil partner. It also re-enacts (with some modifications) regulation-making powers under section 28 of the 1993 Act to make provision in relation to survivors’ benefits.
289. *Paragraph 11* omits sections 28 to 29 to remove the existing rules applying to protected rights which will be replaced by the provisions of the new section 27A.
290. *Paragraph 12* inserts a new section 32A into the 1993 Act to ensure that where the protected rights are being given effect to by an insurance policy, the policy must make the same provision as would a scheme to which sections 25A and 27A apply.
291. *Paragraph 13* amends section 33 (tax requirements to prevail over certification requirements), and its sidenote, to include references to new section 25A.
292. *Paragraph 14* amends section 33A (appropriate schemes: blowing the whistle) so that it applies to personal pension schemes which cease to be contracted-out as a result of section 15(1) of the Act.
293. *Paragraph 15* amends section 34 (cancellation, variation, surrender and refusal of certificates) so that after the abolition date this section will only apply to schemes contracted-out by virtue of satisfying section 9(2).
294. *Paragraph 16* amends section 38 (alteration of the rules of appropriate schemes) so that, rather than applying to appropriate schemes, it applies to personal pension schemes that were appropriate schemes. The prohibition on rule changes continues to apply for as long as there are people who have protected rights under the personal pension scheme or who are entitled to any benefit giving effect to such rights under the scheme.
295. *Paragraph 17* amends section 42A by providing a new subsection (8) setting out a definition of “appropriate flat-rate percentage” and “appropriate age-related percentage” in view of the fact that the sections including definitions of these terms (sections 42B and 45A) are to be repealed. Section 42A provides for the calculation of reduced rates of national insurance contributions, and rebates, for earners in COMPs. The section is retained during the period immediately after the abolition date so that HMRC can continue to deal with any matters in connection with reduced rates of national insurance contributions, and rebates, which are outstanding at the date of abolition.

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296. *Paragraph 18* omits section 42B. Section 42B provides for the Secretary of State to make a report and then an order specifying the “appropriate flat-rate percentage” and the “appropriate age-related percentage”. These percentages are used to determine national insurance rebates for COMPs, and there will therefore be no need for the Secretary of State to make further orders after the abolition date.
297. *Paragraph 19* amends section 43 by providing a new subsection (7) defining “the earner’s chosen scheme”. This is necessary because the current definition is contained in section 44, which is to be repealed. Section 43 deals with the payment of contracted-out rebates (minimum contributions) to appropriate personal pension schemes. The section is retained for the period immediately after the abolition date so that HMRC can continue to deal with any minimum contributions relating to the period before the abolition date which are outstanding as at the date of abolition.
298. *Paragraph 20* omits section 44. Section 44 provides a mechanism for an earner to choose that contracted-out rebates (minimum contributions) must be made by HMRC to the earner’s chosen APP. After abolition of APPs this section will no longer be required.
299. *Paragraph 21* amends section 45 by inserting a new subsection (4), defining “appropriate age-related percentage” for the purpose of the section. The new subsection is required in view of the fact that the definition is currently included in section 45A, which is to be repealed. Section 45 sets out how contracted-out rebates to APPs (minimum contributions) are to be calculated. Section 45 is retained for the period immediately after abolition so that HMRC can continue to deal with any minimum contributions relating to the period before the abolition date which are outstanding as at the date of abolition.
300. *Paragraph 22* omits section 45A. Section 45A provides for the Secretary of State to make a report and then an order specifying the “appropriate age-related percentage” for the purposes of calculating minimum contributions under section 45. After the abolition of APPs there will be no need for the Secretary of State to make further orders.
301. *Paragraph 23* amends section 48A. That section deals with the reduction of an earner’s additional pension in respect of any tax week in which a contracted-out rebate was paid as a result of the earner’s membership of a contracted-out occupational pension scheme or an APP. In section 48A(1)(a), the reference to section 42A is amended to reflect the fact that from the abolition date no further contracted-out rebates in respect of COMPs will be made (although rebates resulting from pre-abolition periods of membership of a COMP will continue to affect a person’s entitlement to additional pension). Similarly, in section 48A(1)(b), the reference to section 45(1) is amended, to reflect the fact that from the abolition date no further national insurance rebates in respect of APPs will be made (although rebates resulting from pre-abolition periods of membership of an APP will continue to affect a person’s entitlement to additional pension).
302. *Paragraph 24* amends section 50. That section gives power to HMRC to approve arrangements for schemes which cease to be certified as contracted-out or APPs or to issue a certificate of non-approval. The effect of the amendments is that HMRC’s powers under section 50 extend to schemes which cease to be COMPs or APPs as a result of *section 15(1)* of the Act. *Paragraph 20* also makes various consequential amendments to section 50 to reflect the fact that there will be no money purchase contracted-out schemes after the abolition date.
303. *Paragraph 25* amends section 52. Section 52 provides for the continued supervision by HMRC of occupational pension schemes which used to be contracted-out and personal pension schemes which used to be APPs. The effect of the amendments is that the supervision requirements also apply to schemes which cease to be COMPs and APPs as a result of *section 15(1)* of the Act.
304. *Paragraph 26* amends section 55, which deals with contributions equivalent premiums. The amendment reflects the fact that after the abolition date COMPs will cease to

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exist, and therefore the existing provision that the section applies to contracted-out occupational pension schemes *other than COMPs* becomes superfluous.

305. *Paragraph 27* amends section 68A (safeguarded rights). The reference to section 9(3) in section 68A(5) is replaced by a reference to a “money purchase contracted-out scheme” in view of the fact that section 9(3) is to be omitted. The references in this subsection to rights under, or derived from, a COMP or APP are retained because safeguarded rights which arose pre-abolition date and which are attributable to COMP or APP service will continue to include COMP or APP rights.
306. *Paragraph 28* amends section 87 (the general protection principle). The amendment restates the present position that the section only applies to occupational pension schemes contracted-out by virtue of satisfying section 9(2), but without doing so by referring to COMPs, which will not exist after the abolition date.
307. *Paragraph 29* amends section 96, which deals with cash equivalents. The amendment reflects the fact that appropriate schemes will cease to exist from the abolition date. The effect of the amendment is that, where a transfer is made to a personal pension scheme which is unable or unwilling to accept a transfer payment for guaranteed minimum pensions or protected rights, the member will have a right to the balance of the cash equivalent after deduction of liabilities for guaranteed minimum pensions and/or protected rights.
308. *Paragraph 30* amends section 156 so as to allow HMRC to give information to a former APP for the purposes of Part III.
309. *Paragraph 31* amends section 163 (exemption of certain schemes from rule against perpetuities) so as to remove a reference to APPs that becomes redundant after the abolition date.
310. *Paragraph 32* amends section 164 (Crown employment) by removing references to provisions of the 1993 Act which are to be repealed.
311. *Paragraph 33* amends section 177 (general financial arrangements) by removing references to provisions of the 1993 Act which are to be repealed.
312. *Paragraph 34* amends section 181(1) (general interpretation) by providing various new and amended definitions. Section 181(4) (regulations) is amended to reflect the fact that section 44 is to be repealed.
313. *Paragraph 35* inserts a new section 181A which deals with the interpretation of references to money purchase contracted-out schemes or appropriate schemes after the abolition date. The definitions apply in respect of periods before the abolition date, and mirror the existing definitions of the same expressions in the Act. These historical definitions are required because, although COMPs and APPS will cease to exist from the abolition date, the definitions used in this section will continue to be relevant for the calculation of a person’s additional pension, and, during the period immediately after the abolition date, for dealing with matters relating to periods before that date which are still outstanding at that date (for example contracted-out rebates).

Amendments to Pensions Act 1995

314. *Paragraph 36* amends section 149 of the PA1995. Section 149 gives a power to the Secretary of State to make regulations providing for schemes which provide both pensions capable of being contracted out by virtue of section 9(2) and pensions capable of being contracted out by virtue of section 9(3) to be treated as two separate schemes. The effect of the amendment is that schemes which provide both pensions capable of being contracted out by virtue of section 9(2), and pensions satisfying the requirements mentioned in new section 25A(3) are to be treated as two separate schemes for the purposes of Part 3 of the PSA1993.

Amendments to Welfare Reform and Pensions Act 1999

315. *Paragraph 37* omits section 1(10). The amendment removes the current condition that a stakeholder pension scheme which is a personal pension scheme must be an appropriate scheme. A consequential amendment is made to section 1(1).
316. *Paragraph 38* amends a cross-reference to section 1(10) to reflect the fact that it has been omitted.
317. *Paragraph 39* omits section 7, which allows orders under section 42B and 45A of the PSA1993 to specify different percentages in orders made under those sections for the purposes of for stakeholder schemes. Those sections are to be repealed and so section 7 is no longer needed.
318. *Paragraph 40* amends Schedule 5 paragraph 7(6) to remove a cross reference to a provision that is repealed by the Act and to insert a new paragraph (ab).

Amendment to Pensions Act 2004

319. *Paragraph 41* omits section 257(7) of the PA2004. This subsection means that the pensions protection provided by virtue of transfer of undertakings protection of employment is not provided to employees in a contracted-out money purchase occupational pension schemes where the scheme only makes contributions based on the contracted-out rebate (minimum payments). The need for such an exemption will cease to exist after the abolition date.

Part 2

320. The amendments in *Part 2* are intended to be brought into force at a date later than the abolition date. The purpose of bringing the amendments in *Part 2* of the Schedule into force at a later date is to ensure that the existing statutory mechanisms for HMRC to deal with administrative matters concerning the contracted-out rebate and certification of schemes etc. remain in place until any matters outstanding at the date of abolition of COMPs and APPs have been dealt with before the amendments are brought into force.

Social Security Contributions and Benefits Act 1992

321. *Paragraph 42* makes amendments to section 4C (regulation-making power in respect of retrospective tax legislation) to reflect the abolition of COMPs and APPs.
322. *Paragraphs 43 and 44* make amendments to sections 8 and 9 respectively (calculation of primary and secondary Class 1 contributions) to remove references to section 42A of the PSA1993, which is to be repealed.
323. *Paragraph 45* makes amendments to Schedule 1, which deals with the calculation of national insurance contributions in cases where an earner is employed in more than one employment, to reflect the fact that COMPs and APPs are being abolished.

Pension Schemes Act 1993

324. *Paragraph 47* omits section 8(3), which allows for regulations to be made in relation to the manner in which minimum payments are to be made etc. Minimum payments derive from the contracted-out rebate and are paid to a COMP in respect of earners in contracted out employment.
325. *Paragraph 48* amends section 20(3) to omit a reference to sections that are being repealed by the Act
326. *Paragraph 49* omits section 31 which currently provides for the investment and resources of schemes.

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- 327. *Paragraph 50* omits section 40(b), which currently provides for contributions to be paid by HMRC in respect of earners who are members of COMPs and APPs.
- 328. *Paragraph 51* omits section 42A, which provides for the calculation of national insurance rebates in respect of contracted-out employment in a COMP.
- 329. *Paragraph 52* omits section 43, which provides for HMRC to make minimum contributions to an APP which is an earner's chosen scheme.
- 330. *Paragraph 53* omits section 45, which provides for the calculation of minimum contributions.
- 331. *Paragraph 54* omits section 45B, which provides a power to make regulations dealing with the verification of ages for the purpose of determining "appropriate age-related percentages", and provides a power to disclose information in connection with contracted-out rebates.
- 332. *Paragraphs 55, 56, and 57* amend sections 50, 164 and 177 respectively to reflect the repeal of sections 42A, 43 and 45.
- 333. *Paragraph 58* omits the definition of "minimum contributions" in section 181(1) and omits a reference to section 43 in section 181(4). Minimum contributions are made to APPs, and will therefore no longer be required.
- 334. *Paragraph 59* amends Schedule 2 (certification regulations) by making a correction to paragraphs 4 and 6 to reflect the fact that section 66 has been repealed, and by amending the list of provisions in paragraph 5 to reflect repeals in this Schedule.
- 335. *Paragraph 60* amends Schedule 4 (priority in bankruptcy) to reflect the fact that COMPs will no longer exist.

Part 3 – Savings

- 336. *Paragraph 61* allows HMRC to continue to deal with COMP and APP certificates which are still outstanding at the abolition date.
- 337. *Paragraph 62* allows HMRC to continue to cancel, vary etc. COMP and APP certificates retrospectively after the abolition date.

Section 16: Dispute resolution arrangements

- 338. *Section 16* amends section 273 of the PA2004. That section of that Act (pensions disputes) substitutes a new section 50 into the PA1995 and adds new sections 50A and 50B. Section 273 has not yet been brought into force.
- 339. *Subsections (2), (3) and (9)* make minor textual amendments.
- 340. *Subsection (4)* inserts subsection (4A) into the new section 50. Subsection (4A) provides trustees or managers of an occupational pension scheme with the option of adopting two-stage dispute resolution arrangements. Schemes must provide for disputes to be considered by the trustees or managers, but the trustees or managers can choose for disputes to be considered by another person first. Any decision by the trustees or managers will confirm or replace any first-stage decision.
- 341. *Subsection (5)* inserts subsection (5A) into the new section 50. The effect is that the requirements of new section 50(5) apply equally to any first-stage arrangements. This means any decision on an application made under a discretionary first stage must be made and notified to the applicant within a reasonable period.
- 342. *Subsections (6) and (7)* make minor amendments to make it clear that the requirements of section 50B relating to the dispute resolution procedure apply only to applications to the trustees or managers, and not any discretionary first stage process.

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343. *Subsection (8)* substitutes a new version of section 50B(3). The amendment means that certain applications will simply have to be made within a reasonable period rather than in accordance with a fixed six-month time limit. This will give the trustees or managers the flexibility to adopt time limits to suit either one or two stage arrangements.
344. *Subsection (10)* inserts a new subsection (4A) into new section 50B. This amendment makes it clear that a decision by the trustees or managers can be made by one or more of the trustees on behalf of the whole board.

Section 17: Removal of Secretary of State's role in approving actuarial guidance

345. The section introduces *Schedule 5* which amends pensions legislation and other legislation to remove the requirement for the Secretary of State to approve certain actuarial guidance.

Schedule 5: Removal of Secretary of State's role in approving actuarial guidance

346. This Schedule amends provisions which require actuarial guidance to have been approved by the Secretary of State.
347. *Paragraphs 1 and 2* amend sections 36C and 36F of the Bankruptcy (Scotland) Act 1985 and *paragraphs 3 and 4* amend sections 342C and 342F of the Insolvency Act 1986 respectively to remove the requirement that guidance prepared by a prescribed person to calculate the value of a pension scheme is to have been approved by the Secretary of State.
348. *Paragraphs 5 and 6* amend the PSA1993. Section 12A is amended to remove the requirement for the Secretary of State's approval in the case of prescribed guidance to determine whether a pension scheme which has applied to contract out under section 9(2B) meets the statutory standard and section 113 is amended to remove the requirement for the Secretary of State's approval in the case of prescribed guidance on the information to be given about schemes to members.
349. *Paragraphs 7 and 8* amend the PA1995. Section 67D is amended to remove the power to make regulations to require prescribed guidance on calculating the actuarial value of an affected member's subsisting rights to have been approved by the Secretary of State. Section 119 is amended to remove the power to make regulations to require the prescribed guidance on valuing a scheme's assets and liabilities to have been so approved.
350. *Paragraph 9* amends section 230 of the PA2004 to remove the power to make regulations to require the Secretary of State's approval in the case of prescribed actuarial guidance.

Section 18: Financial assistance scheme: increased levels of payments

351. *Section 18* amends section 286 of the PA2004 which provides for a financial assistance scheme for members of certain pension schemes. The section also makes freestanding provision relating to initial payments made under that financial assistance scheme.
352. *Subsection (2)* inserts two subsections, (1A) and (1B), into section 286 of the PA2004. Subsection (1A) provides that regulations made under section 286(1) of that Act must ensure that the level of any final assistance payment made to a member (known as an "annual payment") is set at no less than 80% of that member's expected pension (as that term is defined in the regulations), taking account of any actual pension (as defined in the regulations, which is, broadly, the actual amount of pension that a member is determined to be receiving based on the assets allocated to them by their scheme). This is subject to certain restrictions set out in the regulations (described in subsection (1B)). Subsection (1A) also requires the regulations to ensure that that level of assistance will be received by all qualifying members, regardless of age.

353. Subsection (1B) sets out the restrictions that can apply to the amount of an annual payment. The specified proportion of the member's expected pension may be subject to any cap set out in the regulations and regulations may provide that an annual payment is not payable where the member's actual pension exceeds a specified amount. The current caps are set at £12,000.
354. *Subsection (3)* inserts new definitions into section 286(2), which are defined by reference to regulations made under section 286(1). Currently the relevant regulations are the [Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1886](#), as amended).
355. *Subsections (4) to (11)* relate to initial payments (which are paid on account of annual payments while pension schemes are winding up) that have been or that will be made under the financial assistance scheme to qualifying members or to their survivors. Initial payments are provided for in regulations made under section 286(1) of the PA2004. These new provisions override those regulations to the extent that they are inconsistent (*subsection (8)*). *Subsection (5)* sets initial payments at a level of 80% of the expected pension for a qualifying member less any interim pension the member is receiving from their scheme. *Subsection (5)* also provides, however, that initial payments are subject to certain restrictions which are set out in the regulations made under section 286(1) (and which are modified by *subsection (7)*). The cumulative effect is that a cap (currently £12,000) is applied to the product of the calculation of 80% of the member's expected pension and an initial payment is not payable where a member's interim pension exceeds a specified amount (also currently £12,000).
356. *Subsection (6)* sets initial payments for eligible survivors of qualifying members at half of the qualifying member's expected pension proportion less any interim pension payable to the survivor. If 80% of the member's expected pension was or would have been subject to a cap then *subsection (6)* provides for the survivor to receive half the capped amount instead.
357. *Subsection (9)* provides that the level of initial payments set by this section can be amended by regulations (which under *subsection (10)* will be subject to the affirmative procedure).

Section 19: Temporary restriction on purchase of annuities

358. *Section 19* requires the Secretary of State to make regulations to temporarily prevent the purchase of annuities by trustees of relevant pension schemes except where they have entered into a binding commitment or where the FAS scheme manager considers such purchase to be appropriate.
359. *Subsection (1)* requires the Secretary of State to make regulations to prevent trustees of relevant pensions schemes from purchasing, or agreeing to purchase, annuities on behalf of qualifying members during the period of 9 months beginning with the date on which the regulations come into force. Paragraph (a) provides for an exception to be made if before the date on which the regulations come into force the trustees have entered into a binding commitment to purchase annuities and paragraph (b) provides for an exception to be made if the purchase of annuities is approved under the terms of subsection (2).
360. *Subsection (2)* requires regulations under *subsection (1)* to make provision for enabling trustees of relevant pension schemes to apply to the scheme manager for approval of the purchase of annuities (paragraph (a)) and for authorising the scheme manager to approve such purchases where he thinks it is appropriate to do so (paragraph (b)).
361. *Subsection (3)* defines a "relevant pension scheme" as any scheme that is a qualifying pension scheme and which is not fully wound up at any time during the 9 months commencing from the date on which the regulations made under *subsection (1)* come into force.

362. *Subsection (4)* states that regulations under section 19 must be made as soon as is reasonably practicable after the passing of the Act (paragraph (a)) and that such regulations may make any consequential, incidental, supplemental or transitional provisions that the Secretary of State considers appropriate (paragraph (b)).
363. *Subsection (5)* provides that regulations under section 19 will be subject to the negative resolution procedure.
364. *Subsection (6)* provides that "occupational pension scheme", "qualifying member", "qualifying pension scheme" and "scheme manager" have the same meanings as in section 286 of the [Pensions Act 2004 \(c.35\)](#).

Part 3: Personal Accounts Delivery Authority

Section 20: Personal Accounts Delivery Authority

365. *Section 20* establishes as from the passing of the Act a body corporate called the 'Personal Accounts Delivery Authority' (the "Authority") which is to have a remit covering the whole of Great Britain and Northern Ireland. The Authority is not a servant or agent of the Crown, and as such does not enjoy the associated status, immunity or privileges. The section also introduces [Schedule 6](#), which contains provisions about the membership of the Authority and other matters.

Section 21: Initial function of the Authority

366. The Authority may do what it thinks appropriate to prepare for the implementation of, or for advising on the modification of, any relevant proposals about personal accounts.
367. In this section the phrase 'advising on the modification of any relevant proposals about personal accounts' relates to the Authority's advisory role in helping the Government understand the commercial and operational implications on implementation of policy proposals. This could amount to suggesting additions, omissions or variations in the proposals to reflect, for example, industry best practice.
368. *Subsection (2)* defines the meaning of 'relevant proposals' as being any proposals made by the Secretary of State connected with the establishment of a national low-cost portable pensions savings scheme, and any additional proposals that relate to this subject matter, or relate to matters that are incidental or supplemental to the proposals or to consequential or transitional matters. Proposals are to be considered relevant whether or not Parliament has given the approval on which their implementation would depend. The Government will make proposals relating to personal accounts and the Authority needs to be able to prepare for these before Parliament has given its approval. However, by virtue of *subsection (4)* the Authority will not be able to implement any proposals requiring the approval of Parliament in advance of Parliament giving its approval.
369. *Subsection (3)* provides the Authority with incidental powers in connection with the discharge of its main function.
370. *Subsection (4)* provides that the Authority may not implement any of the proposals requiring Parliament's approval unless such approval has been received. Before any such approval is given the Authority can only formulate proposals and take preparatory steps towards their implementation when approved and carry out any connected activities.
371. *Subsection (5)* provides that the Authority may not borrow money for the purpose of, or in connection with, performing its functions from anyone.
372. *Subsection (6)* provides that the Secretary of State may issue guidance to the Authority from time to time about the discharge of the Authority's functions as outlined in the section.

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373. *Subsection (7)* obliges the Authority to have regard to any guidance that may be issued by the Secretary of State under *subsection (6)* in discharging its functions as outlined in the section.

Section 22: Management of the Authority

374. *Section 22* places the Authority under a duty, when managing its affairs, to have regard to such guidance concerning the management of public bodies as it considers appropriate and, subject to such guidance and insofar as they are applicable to the Authority, to generally accepted principles of good corporate governance.
375. Guidance on the management of public bodies includes that provided by the Cabinet Office, for example the *Guidance on Codes of Practice for Board Members of Public Bodies* (October 2004). Principles of good corporate governance include those currently set out in the *Combined Code* published by the Financial Reporting Council in June 2006.

Section 23: Winding up of the Authority on abandonment etc. of proposals

376. *Subsection (1)* provides that the Secretary of State may by order provide for the winding up and dissolution of the Authority if he considers that the condition in *subsection (3)* is met, namely, that as a result of the abandonment or modification of relevant proposals on the personal accounts scheme it is no longer necessary for the Authority to exist.
377. *Subsection (2)* provides that if the Secretary of State considers that the condition in *subsection (3)* is met at any time after 2008 he must, as soon as is reasonably practicable, make an order providing for the dissolution of the Authority.
378. *Subsection (4)* clarifies that the Secretary of State is not obliged to reintroduce an order for the Authority's dissolution by virtue of *subsection (2)* if such an order has been previously defeated in either House of Parliament.
379. *Subsection (5)* makes provision allowing the order to include, among other things, details on the transferring of the Authority's property, rights and liabilities to the Secretary of State on dissolution of the Authority.
380. *Subsection (6)* provides that the order can include consequential, incidental, or supplemental provisions, and transitional, transitory or saving arrangements that are considered appropriate by the Secretary of State as a result of the winding up and dissolution of the Authority.
381. *Subsection (7)* enables the Secretary of State to use the order to remove what will be redundant provisions from the Act in the event of the dissolution of the Authority.
382. *Subsection (8)* provides that the power to make an order for the Authority's dissolution is subject to the affirmative resolution procedure in both Houses of Parliament.

Schedule 6: The Personal Accounts Delivery Authority

Part 1: Members and employees etc.

383. *Part 1* deals with the members and employees of the Authority. The table below summarises the appointment procedures for the Authority and its staff.

	<i>Initial appointment by</i>	<i>Subsequent appointments by</i>	<i>Terms and conditions set by</i>	<i>Remuneration set by</i>
Chairman	Secretary of State	Secretary of State	of Secretary of State	Secretary of State

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	Initial appointment by	Subsequent appointments by	Terms and conditions set by	Remuneration set by
Chief Executive	Secretary of State	Chairman and other non-executive members, subject to Secretary of State approval	Initial Appointment – Secretary of State. Thereafter- Chairman and other non-executive members, subject to Secretary of State approval	Initial Appointment – Secretary of State. Thereafter- Chairman and other non-executive members, subject to Secretary of State approval
Non-executive members (other than Chairman)	Secretary of State	The Authority, subject to Secretary of State approval	Initial appointment - Secretary of State. Thereafter, the Authority, subject to the approval of the Secretary of State.	Secretary of State
Executive members (other than Chief Executive and other employees)	Secretary of State	The Chairman and other non-executives, subject to Secretary of State approval	Initial Appointment – Secretary of State. Thereafter- Chairman and other non-executive members, subject to Secretary of State approval	Initial Appointment – Secretary of State. Thereafter- Chairman and other non-executive members, subject to Secretary of State approval
Other staff	The Authority	The Authority	The Authority	The Authority

384. *Paragraph 1* specifies that both the Secretary of State and the Authority must aim to ensure the Authority’s membership is between 3 and 9 members. The membership of the Authority is to consist of a chairman, appointed by the Secretary of State, non-executives appointed subject to *sub-paragraphs (2) and (3)* (namely that the first non-executives will be appointed by the Secretary of State, with any subsequent appointments to be made by the Authority with Secretary of State’s approval), and any executive members appointed as mentioned in *paragraph 6* of the Schedule.
385. *Paragraph 2* describes how the Secretary of State must, before appointing a chairman or another non-executive member, and from time to time once they have taken up their position, be satisfied that they do not have a conflict of interest, defined in *sub-paragraph (6)* as any interest, financial or otherwise, that is likely to affect prejudicially the way they carry out their functions.
386. *Sub-paragraph (3)* provides that any person mentioned in *sub-paragraph (4)* must, if the Secretary of State requests, provide information that will allow the Secretary of State to satisfy himself that they do not have a conflict of interest.
387. *Sub-paragraph (5)* states that *sub-paragraphs (1) to (4)* apply both when the Secretary of State proposes to make an appointment and when he considers approving an appointment made by the Authority.
388. *Sub-paragraph (7)* sets out the activities that are not to be considered a conflict of interest if they are the only relevant activities. These include being, or having been, involved on behalf of the relevant authority in activities connected with the discharge of the relevant authority’s functions relating to occupational or personal pension schemes. They also include having been a trustee or manager of an occupational or personal pension scheme, or an employee of such a trustee or manager.

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389. *Paragraph 24(1)* defines the relevant authority as either the Secretary of State or the Department for Social Development in Northern Ireland.
390. *Paragraph 3* deals with the tenure of office of the chairman and other non-executive members including the terms and period of their appointment, the procedure for resigning and the grounds, under *sub-paragraph (5)*, on which the Secretary of State may, by notice in writing, remove a non-executive member from office.
391. *Paragraph 4* allows the Authority to pay to non-executive members such remuneration, and to pay to or in respect of them such allowances and gratuities, as may be determined by the Secretary of State.
392. *Sub-paragraph (2)* provides for the Authority to pay compensation to the chairman or other non-executive members if they cease to hold their position for a reason other than the expiry of their term of office and the Secretary of State thinks there are special circumstances that make compensation appropriate. The Secretary of State will decide the amount of any such compensation.
393. *Paragraph 5* provides for the Secretary of State to be able to appoint a non-executive member to the post of deputy chairman to discharge the functions of the chairman if there is a vacancy in the office of chairman or if the chairman is absent or otherwise unable to act. When discharging the chairman's functions, the deputy must have regard to any guidance given by the chairman.
394. *Sub-paragraph (1) of paragraph 6* states that the executive members of the Authority will be the chief executive of the Authority and other persons, if any, appointed in accordance with *sub-paragraph (4) or (5)*.
395. *Sub-paragraph (2)* states that the Authority is not required by *paragraph 1(1)(c)* to have any executive members until the Secretary of State has appointed the initial chief executive.
396. *Sub-paragraph (4) of paragraph 7* states that if an executive member who is a participant in a pension scheme relevant to his membership ceases to be an executive member without ceasing to be an employee of the Authority, the Secretary of State may, for the purposes of pension provision, determine that that person's service as an employee is to be treated as if it were service as an executive member.
397. *Paragraphs 6(7) and 8* allow the Authority to appoint other employees of the Authority who are not executive members, and for the Authority to determine their terms and conditions, including remuneration.
398. *Paragraph 8(3)* states that if an employee of the Authority is a participant in a pension scheme relevant to his employment and becomes an executive member of the Authority, the Secretary of State may, for the purposes of pension provision, determine that that person's service as an executive member is to be treated as if it were service as an employee.

Part 2: Proceedings etc.

399. *Paragraph 9* sets out the committees the Authority may establish and who their members may be.
400. *Sub-paragraph (1)* provides that the Authority has the power to establish committees for the purpose of discharging any of its functions and for the purpose of giving advice to the Authority about matters relating to the discharge of its functions.
401. *Sub-paragraph (2)* provides that the membership of those committees may consist of or include people who are neither members nor employees of the Authority.
402. *Sub-paragraph (3)* provides, however, that a committee must include at least one member or employee of the Authority, except where:

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- the committee has been established for the sole purpose of giving advice to the Authority about matters relating to the discharge of its functions; and
 - it has not been authorised, by virtue of the delegation provisions in [paragraph 14](#), to discharge functions on behalf of the Authority.
403. *Sub-paragraph (4)* states the Authority may pay such remuneration or expenses as it determines to a member of a committee who is neither a member nor an employee of the Authority.
404. [Paragraph 10](#) enables a committee of the Authority to establish a sub-committee.
405. *Sub-paragraph (2)* provides that every member of a sub-committee must also be a member of the committee which established it.
406. [Paragraph 11](#) details how the Authority, its committees and sub-committees may regulate their proceedings.
407. *Sub-paragraph (1)* states that the Authority may (subject in particular to [paragraph 13](#) – regarding disqualification for acting in relation to certain matters) regulate or determine its own, its committees’ and its sub-committees’ procedures. In addition the Authority can enable a committee or sub-committee to regulate or determine its own affairs subject to any provision made by the Authority.
408. *Sub-paragraph (2)* provides, subject to paragraph 13, for the chairman and non-executive members of the Authority to determine, by a majority of non-executive members, the procedure for the discharge of separate functions conferred upon them.
409. *Sub-paragraph (3)* clarifies that the power to regulate or determine procedure described in paragraph 11 includes the power to specify a quorum for meetings, to make provision that in specified circumstances the Authority or the chairman and non-executives can exercise their respective powers of appointment at a meeting which is inquorate, and to make provision for taking decisions by a majority.
410. *Sub-paragraph (4)* requires the Authority to publish all these procedures.
411. [Paragraph 12](#) obliges the Authority to maintain proper records of its proceedings and those of its committees and sub-committees, of the proceedings of a meeting of the chairman and other non-executive members, and of anything done by an employee or member of the Authority as a result of the delegation provisions in [paragraph 14\(a\) or \(b\)](#).
412. [Paragraph 13](#) sets out the situations where a member of the Authority or of a committee or sub-committee will be unable to act at a meeting as a result of having an interest in a matter to be discussed at that meeting.
413. *Sub-paragraph (1)* states that paragraph 13 applies at any meeting of the Authority, of the chairman and other non-executive members, or of any committee or sub-committee. It applies when a participant has a direct or indirect interest in any matter that will be discussed at a meeting they are involved in.
414. *Sub-paragraph (2)* obliges the person to declare the interest and requires the declaration to be recorded in the minutes of the meeting.
415. *Sub-paragraph (3)* states that any person who declares an interest cannot then take part in any discussions or decisions relating to that matter unless:
- in the case of a meeting of the Authority, or a meeting of the chairman and the other non-executive members, the other members present resolve unanimously that the interest is to be disregarded; or

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- in any other case, the other members of the committee or the sub-committee present resolve, in the manner authorised by the Authority, that the interest is to be disregarded.
416. *Sub-paragraph (4)* states that in granting an authorisation under *sub-paragraph (3)(b)* as to the manner in which it can be resolved that the interest of a member of a committee or sub-committee is to be disregarded, the Authority must ensure that it does not allow a person to take part in a discussion or decision at a meeting of a committee (or sub-committee of such a committee) established by virtue of *paragraph 9(1)(a)* for the purpose of discharging any of the authority's functions unless:
- no less than two-thirds of those other members of the committee (or sub-committee) who are both present and able to vote are in favour of the resolution; and
 - the number of other members in favour of the resolution is not less than the quorum of the committee (or sub-committee).
417. *Sub-paragraph (5)* states that for the purposes of *paragraph 13* a general notification given at or sent to a relevant meeting that a person has an interest as a member, officer, employee or otherwise in a specified body corporate or firm, or is connected with a specified person (other than a body corporate or firm) and is to be regarded as interested in any matter involving that body corporate, firm, or person is to be deemed to comply with *sub-paragraph (2)* for that meeting and, as long as the notification remains in force, any subsequent relevant meeting of the same type.
418. *Sub-paragraph (6)* states that for the purpose of determining under *sub-paragraph (5)* whether a person is connected with another person, section 252 of the Companies Act 2006 (which determines whether a person is connected with a director of a company) is to apply.
419. *Sub-paragraph (7)* states that a general notification for the purposes of *sub-paragraph (5)* remains in force until it is withdrawn.
420. *Sub-paragraph (8)* lists 'relevant meetings' for the purposes of *sub-paragraph (5)* as those of the Authority, of the chairman and other non-executive members, or of a committee or sub-committee. It also sets out that a meeting is of the same type as another 'relevant meeting' if they both fall within the same paragraph of *sub-paragraph (8)*.
421. *Sub-paragraph (9)* provides that a person required to make a declaration to meet the requirements of paragraph 13 is not obliged to attend the meeting, and is to be considered to have complied with paragraph 13 if he takes reasonable steps to ensure that notice of his interest is read out and considered at the meeting.
422. *Sub-paragraph (10)* sets out activities that are not to be considered to constitute an interest for the purposes of paragraph 13 if they are the only relevant activities. These include being, or having been, involved on behalf of the relevant authority (see *paragraph 24(1)*), in activities connected with the discharge of the relevant authority's functions relating to occupational or personal pension schemes. These also include having been a trustee or manager of an occupational or personal pension scheme, or an employee of such a trustee or manager.
423. *Paragraph 14* enables the Authority to delegate any function conferred on it to a member, an employee or a committee.
424. *Paragraph 15(1)* provides that:
- a vacancy among the Authority members, or its committees or sub-committees;
 - any defect in the appointments of members of the Authority; or

*These notes refer to the Pensions Act 2007 (c.22)
which received Royal Assent on 26 July 2007*

- a failure to comply with a requirement that is a requirement as to procedure by virtue of *paragraph 11*, relating to the proceedings of the Authority, committees and sub-committees;

will not affect the validity of any proceedings of the Authority, of the chairman and other non-executive members, or of a committee or a sub-committee.

425. *Sub-paragraph (2)* states that nothing in *sub-paragraph (1)(c)* validates proceedings of a meeting which is inquorate other than for the reasons set out in *sub-paragraph (1)(a)* or *(b)*.
426. *Paragraph 16* necessitates the authentication of the Authority's seal by the chairman or another member or any other person authorised by the Authority (generally or specifically).
427. *Sub-paragraph (3)* states that paragraph 16 does not apply to Scotland. In Scotland documents are executed under signature and therefore application of the seal would not be appropriate.
428. *Paragraph 17* obliges the Authority to produce an annual report detailing that year's proceedings and its financial position and to send a copy to the Secretary of State, who must lay a copy of the report before Parliament.

Part 3: Money

429. *Paragraph 18* provides for the Secretary of State, subject to Treasury consent, to make grants to the Authority out of money provided by Parliament.
430. *Paragraph 19* provides that the Authority must prepare, in such a format as the Secretary of State may direct, an annual statement of accounts, and must send a copy to the Secretary of State within such a period as he may direct. The Authority must also send a copy of the statement to the Comptroller and Auditor General who will report on the statement. The Secretary of State will lay a copy of the statement and the Comptroller and Auditor General's report on the statement before Parliament.

Part 4: Supplementary

431. *Paragraphs 20* and *21* amend the appropriate legislation to disqualify members of the Authority from membership of the House of Commons or Northern Ireland Assembly.
432. *Paragraphs 22* and *23* amend the Public Records Act 1958 and the Freedom of Information Act 2000 so that these Acts apply to records of, and information held by, the Authority.
433. *Paragraph 24(1)* defines key terms used in Schedule 6.
434. *Sub-paragraph (2)* of *paragraph 24* states that the functions of the relevant authority in relation to occupational pension schemes and personal pension schemes include any such functions conferred at any point after the passing of the Act .

Part 4: General

Section 24: Review of operation of Act

435. *Section 24* places a statutory obligation on the Secretary of State to report to Parliament on the operation of the Act. This creates a formal mechanism by which the Secretary of State may be held to account for the way in which the Act's provisions have been implemented or, in the case of those not yet in force by the latest date for the report (end of 2014), for the preparations for implementation.
436. *Subsection (2)* allows the Secretary of State to make further such reports should he consider this necessary.

Section 25: orders and regulations

437. *Subsections (1) and (2)* provide that orders and regulations under the Act must be made by statutory instrument and can make different provision for different cases.
438. *Subsections (3) and (4)* provide that the free-standing powers in *sections 15(5) and 18(9)* to make regulations relating to occupational pensions, are, other than in certain exceptional cases, subject to the pre-condition that consultation must take place with interested parties. This puts the position for these powers in line with those under other occupational pensions legislation.

Section 26: interpretation

439. This section defines certain terms used throughout the Act.

Section 27: Consequential provision etc., repeals and revocations

440. *Subsection (1)* provides that the Secretary of State may make such supplementary, incidental or consequential provision, or such transitory, transitional or saving provision, as he considers appropriate for the purposes of the Act.
441. *Subsection (2)* gives effect to *Schedule 7*, which contains repeals and revocations as a consequence of the measures in the Act.
442. *Subsections (3) to (7)* provide for when those repeals and revocations are to have effect. In essence, they are to have effect at the same time as the underlying provision in the Act with which they are associated.

Section 28: Financial provisions

443. This section provides for any expenditure incurred by the Secretary of State by virtue of the Act (for example in setting up the Personal Accounts Delivery Authority), and any increase in sums payable under other Acts which is attributable to the Act, to be paid out of money voted by Parliament. The section also makes provision for increased payments into the Consolidated Fund. These will occur as a result of section 165(5) of the SSAA 1992, which provides for amounts to be paid into that Fund out of the National Insurance Fund which correspond to amounts paid out of voted money in respect of administrative expenses of the Secretary of State.