

*These notes refer to the Pensions Act (Northern Ireland) 2008 (c.1) which received Royal Assent on 11 February 2008*

# Pensions Act (Northern Ireland) 2008

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## EXPLANATORY NOTES

### INTRODUCTION

1. These explanatory notes relate to the Pensions Act (Northern Ireland) 2008. They have been prepared by the Department for Social Development in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section (or Schedule) does not seem to require any explanation or comment, none is given.

### BACKGROUND AND POLICY OBJECTIVES

3. The Act makes provision for Northern Ireland corresponding to provision contained in the [Pensions Act 2007 \(c. 22\)](#) (“the 2007 Act”). It is part of the ongoing process of pensions reform.
4. [Part 1](#) of the Act makes provision for:
  - a single contribution condition for Category A and B pensions for people reaching state pension age (a term interchangeable with “pensionable age”) from 6th April 2010;
  - the removal, from the same date, of the condition for a person’s entitlement to a Category B pension requiring an individual’s spouse or civil partner to have made a claim for their Category A pension;
  - new crediting arrangements to allow a parent, a registered foster parent or a carer reaching state pension age from 6th April 2010 to build up, in certain circumstances, entitlement to a Category A basic state pension, and for their spouse or civil partner to build up entitlement to an associated Category B pension. In addition, bereavement allowance and widowed parent’s allowance, payable to a surviving spouse or civil partner, will be calculated by reference to the new credits in circumstances where the contributor dies on or after 6th April 2010. For those people reaching state pension age on or after that date, each complete year (subject to specified upper limits) of home responsibilities protection awarded under the existing rules of the

scheme will be converted into a qualifying year for a Category A basic state pension and relevant bereavement benefits;

- abolition of adult dependency increases with effect from 6th April 2010 and for entitlements up to this date to be protected to 5th April 2020;
  - the basic state pension and the standard minimum guarantee in state pension credit to be uprated annually in line with earnings rather than prices;
  - increasing the number of people who are deemed to be earning at the low earnings threshold, and so accruing state second pension until the proposed new simplified state second pension is introduced;
  - restructuring state second pension;
  - state pension age to increase by one year per decade between 2020 and 2050, with each change phased in over two consecutive years in each decade.
5. [Part 2](#) of the Act makes provision in relation to non-state pensions. It allows the rights to a guaranteed minimum pension accrued under a defined benefit pension scheme to be converted into ordinary scheme benefits and provides for the abolition of contracting-out for defined contribution pension schemes. It also makes amendments regarding dispute resolution arrangements and the Department's role in approving actuarial guidance.
6. [Part 3](#) of the Act sets out provisions regarding the initial functions of the Personal Accounts Delivery Authority (a body established by section 20 of the 2007 Act) and for the management of that Authority.

## **CONSULTATION**

7. As part of a UK-wide consultation, the Department issued the White Paper *Security in Retirement: towards a new pensions system [Cm 6841]* in May 2006. The consultation report, *Security in Retirement: towards a new pensions system – Summary of responses to the consultation [Cm 6960]*, was published in October 2006. The responses were taken into account when developing the provisions of the Act.

## **OPTIONS CONSIDERED**

8. Full details of all the options considered are set out in the overall Regulatory Impact Assessment for the Act (see paragraphs 20 to 26).

## **OVERVIEW**

9. The Act contains 22 sections and 6 Schedules:

[Part 1](#) - State pension

— Entitlement to Category A and B retirement pensions

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- National Insurance credits
- Abolition of adult dependency increases
- Up-rating of basic state pension and other benefits
- Additional pension: deemed earnings factors
- Additional pension: simplification of accrual rates
- Increase in state pension age

**Part 2 - Occupational and personal pension schemes**

- Contracting-out
- Dispute resolution
- Actuarial guidance

**Part 3 - Personal Accounts Delivery Authority**

**Part 4 – General**

**COMMENTARY ON SECTIONS**

**PART 1: State pension**

**Entitlement to Category A and B retirement pensions**

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

At present, the contribution conditions for basic state pension are set out in paragraph 5 of Schedule 3 to the Contributions and Benefits Act. *Section 1(3)* inserts a new paragraph 5A which sets out the new single contribution condition that will apply in certain cases from 6th April 2010.

New paragraph 5A(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 6th 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 6th 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 national insurance record where the contributor concerned satisfied that condition.

Sub-paragraph (2) sets out the new condition which 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.

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.

Sub-paragraph (4) enables regulations to be made which modify sub-paragraphs (2) and (3) so as not to prevent people insured under the [National Insurance Act \(Northern Ireland\) 1946 \(c. 23\)](#) or the [National Insurance Act \(Northern Ireland\) 1966 \(c. 6\)](#) who reach state pension age from 6th April 2010 qualifying for basic state pension (Category A and/or B) under the new single contribution condition.

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

*Section 2(2)* amends section 48A(2)(a) and (2B)(a) of the Contributions and Benefits Act 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.

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.

*Subsection (3)* omits section 48A(5) of that Act which restricts payability of a Category B pension to periods after the spouse or civil partner’s first payday for their Category A pension.

*Subsection (4)* introduces the consequential amendments in Part 2 of Schedule 1 and *subsection (5)* makes provision for *this section* and that Part of that Schedule to have effect from 6th April 2010.

*Subsection (6)* provides that the amendments to section 48A(2) and (2B) of that Act 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.

Credits for basic state pension etc.

### ***Section 3: Contributions credits for relevant parents and carers***

*Section 3(1)* inserts a new section 23A into the Contributions and Benefits Act 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 6th April 2010.

New section 23A(1) provides that the new crediting arrangements for parents and carers apply to the following benefits:

- a Category A pension for a pensioner who reaches state pension age on or after 6th April 2010;
- a Category B pension for the spouse or civil partner of a person reaching state pension age on or after 6th 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 6th April 2010.

Subsection (2) provides for the contributor to be credited with a Class 3 national insurance contribution for each week after 6th April 2010 in which they are a relevant carer as defined in subsection (3).

Subsection (3) defines a person as a relevant carer in respect of a week if they are:

- a person awarded child benefit in any part of that week for a child aged under age 12 ;
- a foster parent in any part of that week; or
- “engaged in caring” in that week.

Subsection (4) provides a regulation-making power to make entitlement to 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 which will be required is information that would confirm that a person is undertaking qualifying care.

Subsections (5) to (7) allow individuals reaching state pension age, or dying, on or after 6th April 2010 to have any complete years of home responsibilities protection, acquired before 6th 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 the limit is 22 years. In the case of widowed parent's allowance or bereavement allowance the limit is half the requisite number of years in the contributor's working life.

Subsection (8) provides that in circumstances where a week straddles two tax years, a credit for that week will be attributed to the tax year in which the week begins.

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.

Abolition of adult dependency increases

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

*Section 4(1)* and *(2)* provides that sections 83, 84 and 85 of the Contributions and Benefits Act are to cease to apply from 6th April 2010. The Contributions and Benefits Act allows for the weekly rate of Category A or 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 (section 85). Section 83A, which was intended by virtue of paragraph 2 of Schedule 2 to the 1995 Order to provide for increases in respect of spouses and civil partners to be on an equal footing from 6th April 2010, is omitted.

*Subsections (5) to (7)* provide that the repeal of sections 83, 84 and 85, and consequential amendments, are not to apply in certain cases before 6th April 2020. This saving will apply in relation to a person who has claimed an increase of pension under those provisions before 6th 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.

Up-rating of basic state pension and other benefits

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

*Section 5* inserts a new section 132A into the Administration Act to provide that where the Secretary of State for Work and Pensions makes an order under section 150A of the [Social Security Administration Act 1992 \(c.5\)](#) the Department may make a corresponding order for Northern Ireland. This will allow the basic state pension and the standard minimum guarantee in state pension credit to be uprated annually in line with earnings.

Subsection (3) provides that an order made under new section 132A in relation to state pension and industrial death benefit will have effect in relation to the tax year designated by the Secretary of State for Work and Pensions under section 5(4) of the 2007 Act and subsequent tax years. Subsection (4) provides that an order made under new section 132A in relation to the standard minimum

guarantee in pension credit has effect in the tax year in which this Act is passed and subsequent tax years.

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

*Section 6(1) and (2)* amends sections 39 and 39C of the Contributions and Benefits Act, respectively. The effect of the amendments is to empower the Department 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. *Subsection (3)* provides that these amendments will have effect in relation to the tax year designated by the Secretary of State for Work and Pensions under section 5(4) of the 2007 Act and subsequent tax years.

*Subsection (4)* 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 updated in line with earnings.

Additional pension: deemed earnings factors

***Section 7: Deemed earnings factors for purposes of additional pension***

*Section 7(1)* inserts new sections 44B and 44C into the Contributions and Benefits Act.

New section 44B(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).

Subsection (2) provides that an individual who satisfies any of the new Conditions A, B and C set out in subsections (3), (4) and (5) would be deemed to be earning at the low earnings threshold. Those Conditions are:

- 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.
- 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 commentary on new section 44C below) which may be added to their earnings to bring them up to the qualifying earnings factor.
- Condition C which is satisfied if an individual has 52 earnings factor credits by virtue of new section 44C. This would equate to the qualifying earnings factor.

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 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. 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.

Subsection (7)(a) defines “the applicable limit”, which is the upper earnings limit until the flat rate introduction year. At that point, the applicable limit becomes the upper accrual point (see [section 10\(1\)\(b\)](#) and [\(2\)\(b\)](#)).

Subsection (7)(b) defines the low earnings threshold by reference to the definition in section 44A of the Contributions and Benefits Act.

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.

New section 44C of the Contributions and Benefits Act 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)).

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, they are entitled to an earnings factor credit equal to 1/52 of the qualifying earnings factor for that year (i.e. the lower earnings limit).

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 (see [section 3\(1\)](#));
- 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 employment and support allowance under the [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#)); 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.

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.



Subsection (6) provides that earnings factor credits which fall within a week straddling a change in tax years are attributed to the tax year in which the week begins.

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 1/52 of the qualifying earnings factor (see subsection (2)).

Additional pension: simplification of accrual rates

***Section 8: Additional pension: removal of accrual band from 2010-11***

*Section 8* amends Schedule 4A to the Contributions and Benefits Act, which contains the rules for the calculation of additional state pension. As the first step towards introducing a flat rate additional pension the Act provides for 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 to be removed, starting from the 2010-11 tax year.

*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.

*Subsections (3) and (4)* replicate the provisions of *subsection (2)* in respect of the calculation of "contracted-out" state second pension entitlement and the amount available by way of top-up for members of an appropriate personal pension scheme (i.e. a contracted-out personal scheme) respectively.

***Section 9: Additional pension: simplified accrual rates as from flat rate introduction year***

*Section 9(2) and (3)* amends section 45 of the Contributions and Benefits Act 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 that Act.

*Subsection (4)* amends section 121 of that Act 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 Department by order.

***Section 10: Additional pension: upper accrual point***

*Section 10(1)* amends section 22 of the Contributions and Benefits Act to replace the reference to "the upper earnings limit", which represents the current end point for additional pension accruals, with reference to "the 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”.

*Subsection (2)* amends section 44 of that Act 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.

*Subsection (3)* amends section 121 of that Act to define the “upper accrual point”. This will be an amount equivalent to the upper earnings limit multiplied by 52 for the flat rate introduction year, except that there is power for the Department to specify by order a different amount should the forecast earnings growth not result in the low earnings threshold and the upper accrual point converging before 2030.

*Subsections (5) and (6)* allow the Department to make a corresponding order for Northern Ireland where the Secretary of State for Work and Pensions makes an order under section 12 of the 2007 Act. This order would abolish both the low earnings threshold and the upper accrual point when the two converge (expected around 2030).

Increase in state pension age

### ***Section 11: Increase in pensionable age for men and women***

Section 11 introduces changes being made to Article 123 of, and Part I of Schedule 2 to, the 1995 Order relating to the increase of pensionable age for men and women with effect from 6th April 2024.

## **Part 2: Occupational and personal pension schemes**

### **Contracting-out**

#### ***Section 12: Conversion of guaranteed minimum pensions***

Section 9(1) of the Pension Schemes Act 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 10 to 12 of that Act. Section 13(1) of that Act contains a requirement for the payment of a guaranteed minimum pension to a widow, widower or surviving civil partner.

*Section 12(1)* allows a scheme to omit provision for a guaranteed minimum pension, as required under section 9(1) of that Act, where certain conditions are satisfied.

*Subsection (2)* similarly allows a scheme to omit provision for a survivor’s guaranteed minimum pension under section 13(1) of that Act, where the specified conditions are met.

*Subsection (3)* inserts new sections 20A to 20H into the Pension Schemes Act which set 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).

Section 20A sets out definitions of terms used in sections 20A to 20H.

Section 20B 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 20D), and specified procedural requirements to be met (see section 20E).

Section 20C provides a power for regulations to be made concerning how actuarial equivalence is to be determined.

Section 20D 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 20E 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 Her Majesty's Revenue and Customs about the guaranteed minimum pension conversion.

Section 20F provides a power for regulations to be made concerning conditions for transfers of pension rights out of a guaranteed minimum pension-converted scheme and 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.

Section 20G provides powers for trustees to amend schemes to facilitate guaranteed minimum pension conversion and 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 20H provides powers for the Pensions Regulator in respect of enforcing the conditions for guaranteed minimum pension conversion, and provides for the power under Article 10 of the 1995 Order (civil penalties) to apply to trustees undertaking a guaranteed minimum pension conversion.

*Subsection (5)* amends section 43 of the Pension Schemes Act 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").

*Subsections (8) and (9)* ensure the continuation of the partial protection against inflation of guaranteed minimum pension increases included in the payments of

state retirement pension where a person has their guaranteed minimum pension converted.

*Subsection (10)* concerns the situation where a person with an increase to his guaranteed minimum pension such as is mentioned in *subsection (8)* has his guaranteed minimum pension converted prior to his death. This subsection ensures that his widow, widower or surviving civil partner will continue to have entitlement to certain guaranteed minimum pension additions awarded with the survivor's state retirement pension, and that these additions will be protected against inflation.

*Subsection (12)* provides that regulations made under the new section 20B(5) are subject to the confirmatory resolution procedure in the Assembly.

### ***Section 13: Abolition of contracting-out for defined contribution pension schemes***

*Section 13(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 operation ("the abolition date").

*Subsections (4) to (9)* contain provision regarding regulations which may be made under *this section*. Regulations which amend or repeal any relevant statutory provision (as defined in *subsection (13)*) are subject to the confirmatory procedure in the Assembly. Other regulations are subject to the negative resolution procedure unless they are made together with regulations subject to confirmatory procedure (*subsections (9) and (10)*).

Dispute resolution

### ***Section 14: Dispute resolution arrangements***

*Section 14* amends Article 250 of the 2005 Order which substitutes Articles 50 to 50B of the 1995 Order for Article 50 of that Order. Article 250 has not yet been brought into operation.

*Subsection (4)* inserts paragraph (4A) into the new Article 50 to provide 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.

*Subsection (5)* inserts paragraph (5A) into the new Article 50 to ensure that the requirements of new Article 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.

*Subsections (6) and (7)* make minor amendments to make clear that the requirements of Article 50B relating to the dispute resolution procedure apply

only to applications to the trustees or managers, and not any discretionary first-stage process.

*Subsection (8)* substitutes a new version of Article 50B(3) which replaces references to a fixed six-month time limit for applications to the trustees or managers for certain applicants with reference to a reasonable period. This will give the trustees or managers the flexibility to adopt time limits to suit either one or two-stage arrangements.

*Subsection (10)* inserts a new paragraph (4A) into Article 50B to make 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.

Actuarial Guidance

### ***Section 15: Removal of Department's role in approving actuarial guidance***

Section 15 introduces amendments detailed in Schedule 5 relating to the removal of powers conferred on the Department to approve actuarial guidance.

## **Part 3: Personal Accounts Delivery Authority**

### ***Section 16: Initial function of the Personal Accounts Delivery Authority***

The Personal Accounts Delivery Authority (“the Authority”) is a body established by section 20 of the 2007 Act. It 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.

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 to 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.

*Subsection (2)* defines the meaning of “relevant proposals” as being any proposals made by the Department or Secretary of State for Work and Pensions 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 the Assembly or Parliament has given the approval on which their implementation would depend. However, by virtue of *subsection (4)* the Authority will not be able to implement any proposals requiring the approval of the Assembly or Parliament in advance of approval being given.

*Subsection (3)* provides the Authority with incidental powers in connection with the discharge of its main function.

### ***Section 17: Management of the Authority***

*Section 17* 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 it is applicable to the Authority, to generally accepted principles of good corporate governance.

Guidance on the running 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 are currently set out in the *Combined Code* published by the Financial Reporting Council in June 2006.

## **Part 4: General**

### ***Section 18: Review of operation of Act***

*Section 18* places a statutory obligation on the Department to report to the Assembly on the operation of the Act. This creates a formal mechanism by which the Department 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. Subsection (2) allows the Department to make further such reports and subsection (3) provides that any report must be laid before the Assembly.

### ***Section 19: Consequential etc. provision, repeals and revocations***

*Section 19(1)* provides the Department with the power to make provision for the purpose of giving full effect to the Act. Subsections (2) to (6) detail when the repeals and revocations in Schedule 6 come into effect. Subsection (8) amends Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 to add the Act to the list of enactments covered by that provision.

### ***Section 20: Interpretation***

*Section 20* lists definitions used throughout the Act.

### ***Section 21: Commencement***

*Section 21* provides that certain provisions in the Act shall come into operation on a day appointed by the Department.

## **SCHEDULES**

### ***Schedule 1 - State Pension: Consequential and Related Amendments***

#### **Part 1 - Category A and B retirement pensions: single contribution condition**

*Paragraphs 1 to 3* amend sections 44, 48A and 48B of the Contributions and Benefits Act to ensure that:

- people reaching state pension age before 6th April 2010 would continue to be entitled to the benefits identified in paragraph 5 of Schedule 3 to that Act 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 6th April 2010 would be entitled to a Category A pension on satisfaction of the single contribution condition in paragraph 5A of Schedule 3 to that Act ( see *section 1(3)*); and
- in the case of Category B pensions, entitlement would be calculated by reference to paragraph 5A of Schedule 3 to that Act for people who are:
  - married to or in a civil partnership with someone who reaches pensionable age on or after 6th April 2010; or
  - the surviving spouse or civil partner of someone who died on or after 6th April 2010 and did not reach state pension age before that date.

*Paragraph 4* amends section 60 of that Act to exclude cases where the single condition applies from the scope of that section because of the insertion of new section 60A.

*Paragraph 5* inserts a new section 60A into that Act which applies to those cases where only the single contribution condition needs to be satisfied as set out in paragraph 5A of Schedule 3 to that Act.

New section 60A(1) 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 B pension.

Subsection (2) provides a regulation-making power to allow a person who would have been entitled to benefit by virtue of paragraph 5A of Schedule 3 to that Act but for the fact that the contributor 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. The calculation for determining the pro-rata 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 \(Northern Ireland\) 1979 \(S.R.1979 No. 243\)](#)), which applies to benefits calculated under paragraph 5 of Schedule 3 to that Act will not apply to the benefits to which this section applies.

Subsection (5) would allow the widow, widower or surviving civil partner of an employed earner who dies on or after 6th April 2010 as a result of an industrial injury or a prescribed disease or injury to inherit a Category B pension, even if the contribution condition set out at paragraph 5A of Schedule 3 to that Act is not satisfied by the deceased employed earner.

Subsection (6) provides that the reference to the single contribution condition in subsections (1) to (3) includes a reference to that condition as modified by regulations under paragraph 5A(4) of Schedule 3 to that Act (i.e. regulations modifying the condition for the purposes of persons who were insured under the National Insurance Act (Northern Ireland) 1948 or the National Insurance Act (Northern Ireland) 1966).

## **Part 2 - Category B retirement pension: removal of restriction on entitlement**

*Paragraph 6* omits section 54(3) of the Contributions and Benefits Act which currently prevents a spouse or civil partner from electing to cancel their Category A pension where this is already in payment without the consent of the other party to the marriage or civil partnership and *paragraph 8* omits paragraph 8(3) of Schedule 5 to that Act. These provisions become redundant by virtue of the amendments made to section 48A to that Act by *section 2*.

*Paragraph 7* amends section 55(3) 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 their Category A pension.

## **Part 3 - Contributions credits for relevant parents and carers**

*Paragraph 9* inserts new subsection (5A) into section 22 of the Contributions and Benefits Act to make reference to the new arrangements in section 23A (see *section 3(1)*) which provide for the crediting of Class 3 contributions.

*Paragraph 10* amends section 172 of that Act to provide that the first regulations made under section 23A(3)(c) will be subject to the confirmatory resolution procedure in the Assembly.

*Paragraph 11* makes a consequential amendment to Part 1 of Schedule 1 to the Welfare Reform Act (Northern Ireland) 2007 so that the definition of "benefit" extends to contributions credits for relevant carers under section 23A of the Contributions and Benefits Act.

## **Part 4 - Category A and Category C retirement pensions: abolition of adult dependency increases**

*Paragraphs 12 to 16* remove references to adult dependency increases in sections 30B(3), 78(4), 88, 89(1) and (1A) and 114(4) of the Contributions and Benefits Act which are redundant following the abolition of those increases.

*Paragraph 17* removes the redundant references to section 83(2) and (3) in section 145(3) of that Act 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.

*Paragraph 18* amends paragraphs 5 and 6 of Part 4 of Schedule 4 to that Act to remove redundant references to the rates at which adult dependency increases of Category A and C pensions are payable.

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

*Part 5* amends the Contributions and Benefits Act and the Administration Act consequential on the insertion of new section 132A into the Administration Act (see *section 5*).

### **Part 6 - Deemed earnings factors for purposes of additional pension**

*Part 6* contains consequential amendments relating to deemed earnings factors to ensure that the current provisions set out in section 22 of the Contributions and Benefits Act do not affect the new provisions inserted by *section 7*; that the current deemed earnings factors provisions in section 44A(1) to (4) 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 6th April 2010.

### **Part 7 - Additional pension: simplified accrual rates**

*Paragraph 32* makes consequential amendments to section 172 of the Contributions and Benefits Act so that any order setting the upper accrual point will be subject to the confirmatory resolution procedure in the Assembly, and an order designating the flat rate introduction year will not be subject to any Assembly procedure (this is also the case for normal commencement orders).

*Paragraphs 33 to 36* make consequential amendments to the Pension Schemes Act in connection with contracting-out arrangements for defined benefit pension schemes to cater for the introduction of the upper accrual point.

### **Part 8 - Increase in pensionable age for men and women**

*Paragraphs 37 to 40* amend the Contributions and Benefits Act consequential on the increase in pensionable age for men and women. The amendments take effect from 6th April 2024 (see *section 11(3)*).

*Paragraph 37* 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 who were widowed before 9th April 2001, and was replaced by bereavement benefit for men and women bereaved after that date.

*Paragraphs 38 and 39* 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.

*Paragraph 40* 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.

*Paragraph 41*, which amends the [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), aligns the qualifying age for entitlement to the savings credit element (currently 65) with rising state pension age.

## ***Schedule 2 - Additional pension: simplified accrual rates***

### **Part 1 - New Schedule 4B to the Contributions and Benefits Act**

*Paragraph 1* inserts new Schedule 4B into the Contributions and Benefits Act to provide for the new method of calculation of additional state pension.

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 that Schedule 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 that Schedule.

Part 2 (paragraphs 2 to 5) sets out the calculation for the amount of additional state pension in respect of years of contracted-in employment.

Paragraph 2 provides that Part 2 applies to a tax year if the contracted-out condition is not satisfied for any tax week in the year.

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.

Paragraph 4 provides that the "flat rate amount" of additional state pension will be the flat rate accrual amount ("FRAA") - £72.80 initially and then as updated annually by an order made under section 130AA of the Administration Act.

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 130 of the Administration Act; then
- multiplying that amount by 10%; then
- dividing that amount by 44.

Part 3 (paragraphs 6 to 10) sets out the calculation for the amount of additional state pension in respect of years of contracted-out employment.

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.

Paragraph 7 prescribes that the appropriate amount for the year is to be calculated by subtracting amount B from amount A.

Paragraph 8 provides that amount A is the “flat rate amount” of additional state pension, as uprated annually under section 130AA of the Administration Act, where there is no surplus above the low earnings threshold.

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 130 of the Administration Act; 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 10(1) provides that amount B is to be calculated by:

- 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 130 of the Administration Act; then
- multiplying that amount by 20%; then
- dividing that amount by the number of years in the pensioner’s working life.

Paragraph 10(2) provides that section 44B of the Contributions and Benefits Act 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 a top-up to the benefits provided by their private pension scheme.

Paragraph 11 allows the Department 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 the state scheme rights of its members.

## **Part 2 - Revaluation of flat rate accrual amount**

*Paragraph 2* inserts a new section 130AA into the Administration Act to provide that the Department may make a corresponding order for Northern Ireland where the Secretary of State for Work and Pensions makes an order under section 148AA of the Social Security Administration Act 1992. This will allow the flat-rate accrual amount to be updated in line with earnings.

## **Part 3 - Consequential amendments**

Part 3 makes consequential amendments to the Contributions and Benefits Act.

*Paragraph 3* amends section 39 to remove redundant references to Schedule 4A (which has no effect in the context of the benefits under section 39) and to omit subsection (3) of that section (which no longer has any legal effect).

*Paragraph 5* inserts the necessary references into section 44 to refer 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.

*Paragraph 6* inserts a new subsection (4) into section 46 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 9* (and the new Schedule 4B).

*Paragraphs 7 to 10* amend respectively sections 48A, 48B, 48BB and 48C to insert the necessary references to the new state second pension accrual regime introduced by the new Schedule 4B so 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.

## **Schedule 3 - Increase for pensionable age for men and women**

This Schedule amends the provisions of the 1995 Order which specify the dates on which men and women reach state pension age (referred to as "pensionable age").

*Paragraphs 3 and 4* amend Schedule 2 to provide how and when state pension age is to be increased from age 65 to 68 and make consequential amendments. In the amended Schedule 2:

- paragraph 1(6) sets out 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 6th April 2024 to 5th April 2025. The phasing arrangements mirror the existing approach used to phase in the increase in state pension age for women where each increase of one year is phased in over two years;

- paragraph 1(7) provides that the state pension age will be age 66 for those born in the period 6th April 1960 to 5th April 1968;
- paragraph 1(8) sets out how the change in state pension age from 66 to 67 is to be phased in for those born in the period 6th April 1968 to 5th April 1969;
- paragraph 1(9) provides that the state pension age will be age 67 for those born in the period 6th April 1969 to 5th April 1977;
- paragraph 1(10) sets out how the change in state pension age from 67 to 68 is to be phased in for those born in the period 6th April 1977 to 5th April 1978; and
- paragraph 1(11) provides that the state pension age will be age 68 for those born on or after 6th April 1978.

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

##### **Part 1**

The amendments in this Part of the Schedule will take effect from the date on which money purchase occupational pension schemes and appropriate scheme certificates (i.e. contracting-out certificates for personal pension schemes) are cancelled by virtue of [section 13\(1\)](#) (“the abolition date”).

The Pension Schemes Act

[Paragraph 2](#) amends section 3. As a result of the amendment of subsection (1) Her Majesty’s Revenue and Customs (HMRC) can no longer issue certificates stating that personal pension schemes are appropriate schemes. In addition, when read with the amendments to section 5, 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.

[Paragraph 3](#) amends the definition of “contracted-out employment” in section 4(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 4 which includes an amended definition of contracted-out employment by reference to a money purchase scheme and will only relate to periods of “contracted-out employment” before the abolition date. This 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 COMPS, 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.

*Paragraph 3(4)* amends section 4(2) to reflect the fact that section 38A is being repealed.

*Paragraph 4* omits section 5(3) and (5) and makes consequential amendments.

*Paragraph 5* amends section 6(3)(a) to reflect the fact that the definition of “minimum contributions” is being repealed.

*Paragraph 6* omits section 8 to reflect the fact that it will no longer be necessary for certificates to state whether a scheme is contracted-out by virtue of section 5(2) or (3), since it will only be possible for schemes to contract out by virtue of section 5(2).

*Paragraph 9* inserts a new section 21A which applies to money purchase occupational pension schemes which ceased to be contracted-out as a result of *section 13(1)*, 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, section 21A(3) requires such schemes to continue to comply with sections 22 to 28 (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 5(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.

*Paragraph 10* inserts a new section 23A to retain the rule which requires provision to be made from protected rights for a surviving spouse or civil partner and re-enacts (with some modifications) regulation-making powers under section 24 to make provision in relation to survivors’ benefits.

*Paragraph 11* omits sections 24 to 25 to remove the existing rules applying to protected rights which will be replaced by the provisions of the new section 23A.

*Paragraph 12* inserts a new section 28A 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 21A and 23A apply.

*Paragraph 13* amends section 29 to include references to new section 21A.

*Paragraph 14* amends section 29A so that it applies to personal pension schemes which cease to be contracted-out as a result of *section 13(1)*.

*Paragraph 15* amends section 30 so that after the abolition date it will only apply to schemes contracted-out by virtue of satisfying section 5(2).

*Paragraph 16* amends section 34 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.

*Paragraph 17* adds a new subsection (9) to section 38A which defines “appropriate flat-rate percentage” and “appropriate age-related percentage” in view of the fact that sections 38B and 41A are being repealed. Section 38A, which provides for the calculation of reduced rates of national insurance contributions, and rebates, for earners in COMPS, 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.

*Paragraph 18* omits section 38B which provides that an order made by the Secretary of State for Work and Pensions under section 42B of the [Pension Schemes Act 1993 \(c. 48\)](#) may make corresponding provision for Northern Ireland specifying percentages for the purposes of section 38A.

*Paragraph 19* adds a new subsection (8) to section 39 to define “the earner’s chosen scheme”. This is necessary because the current definition is contained in section 40 which is being repealed.

*Paragraph 20* omits section 40 which provides a mechanism for an earner to choose that contracted-out rebates (minimum contributions) must be made by HMRC to the earner’s chosen APPS and is no longer needed after abolition date.

*Paragraph 21* adds a new subsection (5) to section 41 to define “appropriate age-related percentage”. This is necessary because the current definition is contained in section 41A which is being repealed.

*Paragraph 22* omits section 41A which provides that an order made by the Secretary of State for Work and Pensions under section 45A of the [Pension Schemes Act 1993 \(c. 48\)](#) may make corresponding provision for Northern Ireland altering the rates of minimum contributions under section 41.

*Paragraph 23* amends section 44A 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 COMPS will continue to affect a person’s entitlement to additional pension); and
- national insurance rebates in respect of APPS will be made (although rebates resulting from pre-abolition periods of membership of an APPS will continue to affect a person’s entitlement to additional pension).

*Paragraph 24* amends section 46 to extend HMRC’s powers to schemes which cease to be COMPS or APPS as a result of [section 13\(1\)](#) and also makes various consequential amendments to reflect the fact that there will be no COMPS after the abolition date.

*Paragraph 25* amends section 48 which 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 13(1)*.

*Paragraph 26* amends section 51(2)(a) to reflect the fact that after the abolition date COMPS cease to exist.

*Paragraph 27* amends section 64A(5) by substituting a reference to a “money purchase contracted-out scheme” consequential upon the omission of section 5(3). The references in this subsection to rights under, or derived from, a COMPS or APPS are retained because safeguarded rights which arose pre-abolition and which are attributable to COMPS or APPS service will continue to include COMPS or APPS rights.

*Paragraph 28* amends section 83(1) to restate the present position that the section only applies to occupational pension schemes contracted-out by virtue of satisfying section 5(2) but without doing so by referring to COMPS, which will not exist after the abolition date.

*Paragraph 29* amends section 92(2) to reflect 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.

*Paragraph 30* amends section 152 to allow the Department or HMRC to give information to a former APPS for the purposes of Part 3.

*Paragraph 31* amends section 159(2) to remove a reference to APPs that becomes redundant after the abolition date.

*Paragraphs 32 and 33* amend sections 160 and 172 respectively to update references and to remove references to provisions which are being repealed.

*Paragraph 34* amends section 176(1) to provide various new and amended definitions. Section 176(4) is amended to reflect the fact that section 40 is being repealed.

*Paragraph 35* inserts a new section 176A 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 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 abolition which are still outstanding at the date of abolition (for example contracted-out rebates).



### **The 1995 Order**

*Paragraph 36* amends Article 146 to provide that schemes which provide both pensions capable of being contracted out by virtue of section 5(2) of the Pension Schemes Act and pensions satisfying the requirements mentioned in new section 21A(3) of that Act are to be treated as two separate schemes for the purposes of Part 3 of that Act.

### **The 1999 Order**

*Paragraph 37* omits Article 3(10) to remove the current condition that a stakeholder pension scheme which is a personal pension scheme must be an appropriate scheme and makes a consequential amendment. *Paragraph 38* makes a further consequential amendment.

*Paragraph 39* amends the definition of “contracted-out rights” in paragraph 7(6) of Schedule 5 to remove a reference to a provision which is being repealed and to insert a new paragraph (ab).

### **The 2005 Order**

*Paragraph 40* omits Article 234(7) which is no longer needed after the abolition date.

## **Part 2**

The intention is that the amendments in this Part are to be brought into operation at a date later than the abolition date to ensure that the existing statutory mechanisms for HMRC to deal with administrative matters concerning the contracted-out rebate and certification of schemes etc. can 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 operation.

### **The Contributions and Benefits Act**

*Paragraphs 41 and 44* amend section 4C and Schedule 1 respectively to reflect the abolition of COMPS and APPS.

*Paragraphs 42 and 43* amend sections 8 and 9 respectively to remove references to section 38A of the Pension Schemes Act which is being repealed.

#### **The Pension Schemes Act**

*Paragraph 46* omits section 4(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 COMPS in respect of earners in contracted-out employment.

*Paragraph 47* amends section 16(3) to omit a reference to sections that are being repealed.

*Paragraph 48* omits section 27 which currently provides for the investment and resources of schemes.

*Paragraph 49* omits section 36(b), which currently provides for contributions to be paid by HMRC in respect of earners who are members of COMPS and APPS.

*Paragraph 50* omits section 38A, which provides for the calculation of national insurance rebates in respect of contracted-out employment in a COMP.

*Paragraph 51* omits section 39, which provides for HMRC to make minimum contributions to an APP which is an earner's chosen scheme.

*Paragraph 52* omits section 41, which provides for the calculation of minimum contributions.

*Paragraph 53* omits section 41B, 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.

*Paragraphs 54, 55 and 56* amend sections 46, 160 and 172 respectively to reflect the repeal of sections 38A, 39 and 41.

*Paragraph 57* omits the definition of "minimum contributions" in section 176(1) and a reference to section 39 in section 176(4). Minimum contributions are made to APPS, and will therefore no longer be required.

*Paragraph 59* amends Schedule 3 to reflect the fact that COMPS will no longer exist.

### **Part 3 - Savings**

This Part allows HMRC to continue to:

- deal with COMPS and APPS certificates which are still outstanding at the abolition date; and
- cancel, vary etc. COMPS and APPS certificates retrospectively after the abolition date.

### ***Schedule 5 - Removal of Department's role in approving actuarial guidance***

This Schedule amends provisions which require actuarial guidance to have been approved by the Department.

*Paragraphs 1* and *2* amend Articles 315C and 315F of the [Insolvency \(Northern Ireland\) Order 1989 \(NI 19\)](#) respectively to remove the requirement that guidance prepared by a prescribed person to calculate certain values relating to a pension scheme is to have been approved by the Department.

*Paragraphs 3* and *4* amend the Pension Schemes Act. Section 8A is amended to remove the requirement for the Department's approval in the case of prescribed guidance to determine whether a pension scheme which has applied to contract

out under section 5(2B) meets the statutory standard, and section 109 is amended to remove the requirement for the Department's approval in the case of prescribed guidance on the information to be given about schemes to members.

*Paragraphs 5 and 6* amend the 1995 Order. Article 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 Department. Article 116 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.

*Paragraph 7* amends Article 209 of the 2005 Order to remove the power to make regulations to require the Department's approval in the case of prescribed actuarial guidance.

## **DEFINITIONS**

- *the 1995 Order* means the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#)
- *the 1999 Order* means the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147 \(N.I. 11\)\)](#)
- *the 2005 Order* means the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#)
- *the 2007 Act* means the [Pensions Act 2007 \(c. 22\)](#)
- *the Administration Act* means the [Social Security Administration \(Northern Ireland\) Act 1992 \(c. 8\)](#)
- *the Contributions and Benefits Act* means the [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#)
- *the Department* means the Department for Social Development
- *the Pension Schemes Act* means the [Pension Schemes \(Northern Ireland\) Act 1993 \(c. 49\)](#)

## ***Glossary***

### ***State pensions***

#### ***Pension categories***

There are four categories of state pension provided under the Contributions and Benefits Act:

- Category A
- Category B
- Category C (there are no remaining beneficiaries in Northern Ireland)

- Category D.

A *Category A* pension is contributory. It consists of two parts, either or both of which may be payable:

- basic state pension - dependent upon the number of qualifying years a person has in their working life;
- additional state pension (also referred to as state second pension) - dependent upon earnings, or deemed earnings, in a person's working life since April 1978.

A *Category B* pension is also contributory. Like a *Category A* pension, it can consist of either a basic state pension or an additional state pension, or both. It is payable by virtue of a spouse's or civil partner's qualifying years and earnings.

A *Category D* pension is non-contributory. It is payable when a person:

- reaches age 80; and
- satisfies certain residence conditions; and either
- is not entitled to another category of state pension; or
- is entitled to one at a lower rate than the *Category D* rate.

### ***Earnings Limits***

The terms relating to the different earnings limits for the purposes of accruing state pension are explained below:

- the "lower earnings limit" is the minimum level of weekly earnings on which a person is treated as paying national insurance contributions for benefit purposes. A person receiving contribution credits or paying flat rate voluntary or self-employed contributions is treated as having earnings at the lower earnings limit for each weekly credit or contribution. The lower earnings limit is currently linked to the standard rate of basic pension. Under the proposed reforms this link will be broken when basic pension starts to be increased in line with average earnings.
- the "primary threshold" is the minimum level of weekly earnings on which an employed person pays national insurance contributions. It is the weekly equivalent of the standard personal allowance for income tax purposes.
- the "upper earnings limit" is the maximum level of weekly earnings on which an employed person pays national insurance contributions other than at the 1% health service contribution and under the current scheme accrues state second pension. It is set at approximately seven times the primary threshold. Under the proposed reforms to state second pension the upper earnings limit will be replaced by an upper accruals point which will not be linked to the primary threshold.
- the "qualifying earnings factor" is the minimum level of earnings on which a person must have paid, been treated as having paid or been credited with

national insurance contributions in a tax year in order to make it a qualifying year for basic pension. It is set at 52 times the weekly lower earnings limit.

- the “low earnings threshold” relates to state second pension only and is:
  - the level of earnings up to which, under the current scheme, state second pension accrues at the 40% rate and, under the proposed simplification, state second pension will accrue at the flat rate; and
  - the amount of earnings a person is deemed to have if they earn above the qualifying earnings factor but below the low earnings threshold or they are accruing state second pension because they are a carer or are sick or disabled,

and is increased annually in line with growth in average earnings.

- the “upper earnings threshold” relates to state second pension only and is used to refer to the top of the band of earnings over the low earnings threshold on which state second pension accrues at the 10% rate. It is set at three times the low earnings threshold minus two times the qualifying earnings factor.

### ***Occupational and personal pensions***

“COMPS” refers to contracted-out defined contribution (also known as money purchase) pension schemes.

“APPS” is contracted-out personal pension schemes referred to as appropriate personal pension schemes.

### **HANSARD REFERENCES**

The following table sets out the dates and Hansard references for each stage of this Act’s passage through the Northern Ireland Assembly.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
First Stage	12 November 2007	Official Report, Vol. 25, No. 3, page 84, Col. 1
Accelerated Passage Motion	26 November 2007	Official Report, Vol. 25, No. 7, page 284, Col. 1 – page 287, Col. 1
Second Stage	26 November 2007	Official Report, Vol. 25, No. 7, page 287, Col. 2 – page 292, Col. 2
Consideration Stage	4 December 2007	Official Report, Vol. 26, No. 1, page 23, Col. 1
Further Consideration Stage	10 December 2007	Official Report, Vol. 26, No. 2, page 52, Col. 2

*These notes refer to the Pensions Act (Northern Ireland)  
2008 (c.1) which received Royal Assent on 11 February 2008*

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
Final Stage	11 December 2007	Official Report, Vol. 26, No. 3, page 116, Col. 1 – page 117, Col. 1
Royal Assent	11 February 2008	Official Report, Vol. 27, No. 5, page 249, Col. 1