

# **PENSIONS ACT 2008**

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## **EXPLANATORY NOTES**

### **THE ACT OVERVIEW**

16. The Act has six Parts:

- Part 1 sets out the new duties on employers to automatically enrol eligible jobholders into automatic enrolment schemes and to contribute to those arrangements. It defines jobholders, qualifying earnings and qualifying schemes. Part 1 also makes provision for a regime to ensure compliance with these duties, and for the protection of employment and pre-employment rights. Part 1 (which includes Schedule 1) makes provision for the establishment of a trust-based occupational pension scheme and for a trustee corporation. There are also provisions to broaden the functions of the Personal Accounts Delivery Authority so that it can take forward the implementation work necessary to establish a pension scheme.
- Part 2 (which includes Schedules 2, 3 and 4) contains measures to simplify and amend existing private and state pensions legislation. Part 2 reduces burdens relating to private pensions schemes by simplifying the treatment of contracted-out rights for the purposes of pension sharing on divorce and by establishing new rules for the revaluation of accrued rights and removing the remaining rules on protected rights, the majority of which relate to survivor benefits. Part 2 also sets out a new method of assessing certain components of state pensions and fixes the Contracted-Out Deduction in relation to gross Additional Pension to provide a single consolidated additional pension. Finally, Part 2 introduces an extension to the state pension credit assessed income period for most individuals aged 75 or over.
- Chapter 1 of Part 3 (which includes Schedules 5, 6 and 7) establishes arrangements for compensation paid by the Pension Protection Fund to be shared on divorce or dissolution of a marriage or civil partnership in England, Wales and Scotland. Chapter 2 of Part 3 (which includes Schedule 8) also makes changes to the compensation provisions of the Pension Protection Fund, to improve the Fund's operation. Chapter 2 of Part 3 also enables individuals in the PPF with a terminal illness to commute their pension entitlement into a lump sum.
- Part 4 contains a measure to enable the Financial Assistance Scheme (FAS) to make payments to qualifying members whose benefits would have been met in full by their pension schemes. Currently the FAS can only make payments to those qualifying members of qualifying schemes who will not receive their benefits in full from their under funded pension scheme. Part 4 also allows for the definition of a FAS qualifying scheme in the PA 2004 to be amended so that exceptions can be made through regulations to the condition that schemes need to have wound-up before 6th April 2005. The regulations could allow certain schemes, which are presently unable to qualify for either the FAS or the PPF, to qualify for the FAS. Finally, Part 4 extends the current restriction on the purchase of annuities by trustees of FAS qualifying pension schemes.

*These notes refer to the Pensions Act 2008 (c.30)  
which received Royal Assent on 26 November 2008*

- Part 5 (which includes Schedules 9 and 10) contains a variety of measures to update existing pensions legislation. This includes changes to the Pensions Regulator's powers. Part 5 contains changes to the national insurance system to allow specific groups of people to increase their state pension entitlement. In addition it also contains a provision which will allow for data to be shared between the Department for Work and Pensions and energy suppliers to provide targeted assistance to individuals receiving state pension credit.
- Part 6 contains technical provisions.