

# **PENSIONS ACT 2008**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Chapter 6: Personal Accounts Delivery Authority***

##### ***Section 79: Functions of the Authority***

206. This section makes provision for broadening the Personal Accounts Delivery Authority's functions. It provides that section 21 of the PA 2007, which sets out the initial functions of the Authority, ceases to have effect. It then allows for the Authority not only to advise and prepare but also to take forward the implementation work to establish the scheme under Chapter 5 and to work with the Pensions Regulator to create the infrastructure to enable employers to register and comply with their new duties.
207. Specifically, this section provides for the Authority to give any assistance or advice on the establishment and operation of the scheme that the Secretary of State may require, and any advice that the Authority considers it appropriate to provide. Similarly, it also provides for the Authority to provide such assistance or advice on arrangements to enable employers to comply with their new duties (in Chapter 1) that the Secretary of State or the Pensions Regulator may require, and any advice that the Authority considers it appropriate to provide.
208. The section provides the Authority with an ancillary power which will allow it to do anything necessary to enable it to carry out its functions or in connection with those functions. For example, this will allow the Authority to enter into formal negotiations and to finalise contracts, and to borrow money to allow it to carry out its functions.

##### ***Section 80: Principles***

209. This section requires the Authority to consider a number of guiding principles when carrying out its functions. The Authority must have regard to the principles and so consider how they apply in relation to the advice or assistance it provides. An effect of the principles is that the Authority will have to consider in carrying out its functions how to encourage those people with moderate to low incomes, who are not currently saving for a pension, to make provision for their retirement.
210. There is no provision for different principles to carry different weight. They all relate to the manner in which the Authority must discharge its functions. The principles are not the only matters which the Authority will have to consider, neither will the principles necessarily be determinative of the choices the Authority makes, but they are matters to which the Authority will need to have express regard.
211. The section also requires the Authority to do anything it considers appropriate to engage in discussion with relevant stakeholders about its functions and how it discharges its functions (*subsection (3)*).

### ***Section 81: Directions and guidance***

212. This section allows the Secretary of State to give directions and guidance to the Authority on anything to do with the discharge of its functions. In turn, the Authority is required to consider any guidance and comply with any direction. If the Secretary of State gives a direction it must be given in writing. The Secretary of State must publish any direction given under this section.

### ***Section 82: Finance***

213. This section replaces paragraph 18 of Schedule 6 to PA 2007, to extend the ways in which the Secretary of State may give financial assistance to the Authority. It allows the Secretary of State to provide finance to the Authority in connection with its functions, for example, through grant or loan with the consent of HM Treasury. The interest rate associated with any loan must be approved by the Treasury and meet the conditions that would apply under section 5 of the National Loans Act 1968 (and so, as a minimum, cover the cost of Government borrowing).

### ***Section 83: Disclosure of information by the Pensions Regulator***

214. *Section 83* amends section 84 of the PA 2004 to permit the Pensions Regulator to disclose restricted information to the Personal Accounts Delivery Authority to enable it to provide assistance or advice to the Regulator.

### ***Section 84: Non-executive committee***

215. *Section 84* amends Schedule 6 to the PA 2007. It adds a requirement for the Authority to set up a non-executive committee. It also sets out the functions that are to be carried out by such a committee.
216. It inserts a new paragraph 8A into Part 2 of Schedule 6 to the PA 2007 which provides that there is to be a non-executive committee consisting of the chairman and other non-executive members of the Authority. The functions of the committee will include subsequent appointments (nominations) and terms and conditions (remuneration) of the chief executive and executive members of the Authority. It also provides that the non-executive committee is responsible for monitoring the Authority's internal financial controls.
217. The non-executive committee must prepare a report on the discharge of their functions for inclusion in the annual report of the Authority.
218. The non-executive committee may establish sub-committees, which must include at least one non-executive member of the Authority and may include people who are not members of the Authority, although it must not include anyone who is an executive or an employee of the Authority. The non-executive committee and its sub-committees can regulate their own proceedings.

### ***Section 85: Executive members***

219. This section makes further amendments to Schedule 6 to the PA 2007 to remove the current requirement that all executive members of the Authority must be employees. Instead, it provides that the Authority may appoint executive members as employees. Consequently, individuals who are not employed by the Authority can become executive members. However, the Chief Executive is always to be an employee of the Authority.
220. *Subsection (4)* makes consequential changes to paragraph 7 of Schedule 6 so that appropriate terms and conditions of appointment can be set.

***Section 86: Winding up of the Authority***

221. This section amends section 23 of the PA 2007 which allows the Secretary of State to wind up and dissolve the Authority by order. It removes the conditions set out in subsections (2) to (4) of section 23 of the 2007 Act which only allow the Secretary of State to dissolve the Authority on abandonment or modification of proposals relating to the scheme that may be established under section 67.
222. This section also extends the provision for transfer of the Authority's property, rights and liabilities. The extension allows such a transfer to be made to any person designated by the Secretary of State.
223. This section also amends subsection (7) of section 23 of the PA 2007 to provide that in the event of the dissolution of the Authority, an order under section 23 can remove what will be redundant provisions from the Act.