

SCHEDULES

SCHEDULE 1

Section 75

THE TRUSTEE CORPORATION

PART 1

MEMBERS AND EMPLOYEES

Members

- 1 (1) Appointments of members of the corporation, and of a member as chair of the corporation, are to be made—
 - (a) by the Secretary of State, if they take effect on the commencement of section 75(1) or in the initial period;
 - (b) by the corporation, if they take effect after the initial period.
- (2) Subject to sub-paragraph (3), the Secretary of State must consult the chair of the corporation before appointing an ordinary member (that is, a member who is not, on appointment, also appointed as chair).
- (3) A vacancy in the office of chair does not prevent the appointment of an ordinary member.
- (4) The Secretary of State and the corporation must aim to ensure that, from the end of the initial period, there are not fewer than 9 and not more than 15 members at any time.
- (5) It is for the Secretary of State to determine the length of the initial period.
- (6) An order under section 67 may provide for section 242 of the Pensions Act 2004 (c. 35) (member-nominated directors of corporate trustees) to apply to the members of the corporation as it applies to the directors of a company, subject to any modifications specified in the order.

Conflicts of interest

- 2 (1) The Secretary of State and, under paragraph 1(1)(b), the corporation must satisfy themselves that a person to be appointed as a member does not have a conflict of interest.
- (2) The Secretary of State and the corporation must also satisfy themselves from time to time that none of the members has a conflict of interest.
- (3) A member of the corporation, or a person the Secretary of State or the corporation proposes to appoint as a member, must provide the Secretary of State on request with any information the Secretary of State considers necessary for the purposes of sub-paragraph (1) or (2).

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- (4) A member of the corporation, or a person the corporation proposes to appoint as a member, must provide the corporation on request with any information the corporation considers necessary for the purposes of sub-paragraph (1) or (2).
- (5) In this paragraph and paragraph 3 “conflict of interest”, in relation to a person, means a financial or other interest which is likely to affect prejudicially that person’s discharge of functions as a member of the trustee corporation.
- (6) But for the purposes of this paragraph and paragraph 3 a person is not to be taken to have a conflict of interest for these reasons alone—
 - (a) being or having previously been engaged, on behalf of the relevant authority, in activities connected with the discharge of the authority’s functions relating to occupational pension schemes or personal pension schemes;
 - (b) having previously been a trustee or manager of such a scheme or an employee of such a trustee or manager.

Disqualification and removal

- 3 (1) A person is disqualified for appointment as a member if—
 - (a) prohibited by an order under section 3 of the Pensions Act 1995 (c. 26) or Article 3 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) from being a trustee of trust schemes in general, or
 - (b) suspended by an order under section 4 of that Act or Article 4 of that Order as a trustee of any scheme.
- (2) While the trustee corporation is a trustee of a scheme established under section 67, section 3 of that Act applies in relation to being a member of the trustee corporation as it applies in relation to being a trustee of the scheme.
- (3) The Pensions Regulator may also make an order under section 3 of that Act as applied by sub-paragraph (2) at any time when it would have power to make an order under section 4 of that Act (suspension) if the person were a trustee of the scheme.
- 4 (1) A person is disqualified for appointment as a member if disqualified under section 29 of the Pensions Act 1995 or Article 29 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) for being a trustee of a trust scheme.
- (2) A person is not disqualified under this paragraph if the Pensions Regulator has given the person a general waiver under section 29(5) of that Act or Article 29(5) of that Order.
- (3) The Pensions Regulator may, on the application of a person disqualified under this paragraph, give the person notice in writing waiving the disqualification.
- (4) A member who becomes disqualified under sub-paragraph (1) ceases to be a member.
- 5 The Secretary of State may remove a member from office if satisfied that the member—
 - (a) has a conflict of interest,
 - (b) is unfit for office by reason of misconduct,
 - (c) has failed to comply with the terms of appointment,
 - (d) has without reasonable excuse failed to discharge the functions of the office, or

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- (e) is otherwise incapable of discharging, or unfit or unwilling to discharge, the functions of the office.

Tenure of office

- 6 (1) A person holds and vacates office as a member or as chair in accordance with the terms of the appointment (subject to this Schedule).
- (2) A person's appointment as a member or as chair must state the period for which the appointment is made.
- (3) The period must not be more than five years.
- (4) At the end of the period the person is eligible for re-appointment, but may not be re-appointed more than once.
- (5) A person may resign as a member by notice in writing to the chair.
- (6) A person may resign as chair by notice in writing to the Secretary of State.
- (7) A person's appointment as chair ceases if the person ceases to be a member.

Remuneration etc

- 7 (1) The trustee corporation may—
 - (a) pay to the members such remuneration, and
 - (b) pay to or in respect of them such sums by way of or in respect of allowances and gratuities,as the Secretary of State may determine.
- (2) Where—
 - (a) a person whose term of office as member or chair has not expired ceases to hold that office, and
 - (b) the Secretary of State thinks there are special circumstances that make it right for the person to receive compensation,the trustee corporation may make a payment to the person of such amount as the Secretary of State may determine.

Staff

- 8 (1) The trustee corporation may appoint employees and make any other arrangements for its staffing that it thinks fit.
- (2) Employees are appointed and hold their employment on terms and conditions, including remuneration, determined by the trustee corporation.
- (3) The trustee corporation must—
 - (a) pay to or in respect of employees such pensions, allowances or gratuities as it may determine, or
 - (b) provide and maintain for them such pension schemes (whether contributory or not) as it may determine.

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PART 2

PROCEEDINGS ETC

Committees and advisory committees

- 9 (1) The trustee corporation may—
- (a) establish a committee for the purpose of discharging any of its functions;
 - (b) establish a committee for the purpose of giving the corporation advice about matters relating to the discharge of its functions.
- (2) A committee may include persons (including persons constituting a majority, but not the whole, of the committee) who are neither members nor employees of the trustee corporation.
- (3) Where a person who is neither a member nor an employee of the trustee corporation is a member of a committee, the trustee corporation may pay to that person such remuneration and expenses as it may determine.
- 10 (1) A committee of the trustee corporation may establish a sub-committee.
- (2) Every member of a sub-committee must be a member of the committee which established it.

Proceedings

- 11 (1) The trustee corporation may, subject to this Schedule—
- (a) regulate its own procedure;
 - (b) regulate the procedure of its committees or sub-committees;
 - (c) enable committees or sub-committees to regulate their own procedure subject to any provision made by the corporation.
- (2) The trustee corporation must publish, in such manner as it thinks fit, its own procedures and those of its committees and sub-committees.
- (3) This paragraph has effect subject to paragraph 13 (disqualification for acting in relation to certain matters).
- 12 The trustee corporation must make arrangements for the keeping of proper records—
- (a) of its proceedings,
 - (b) of the proceedings of its committees and sub-committees,
 - (c) of anything done by an employee or member of the corporation under paragraph 14(a) or (b) (delegation to member or employee).

Disqualification for acting in relation to certain matters

- 13 (1) This paragraph applies if at any meeting of—
- (a) the trustee corporation, or
 - (b) any committee or sub-committee,
- a member of the trustee corporation or, as the case may be, of the committee or sub-committee has a direct or indirect interest in any matter falling to be considered at the meeting.

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- (2) The person with the interest must declare it and the declaration must be recorded in the minutes of the meeting.
- (3) The person with the interest may not take part in any discussion or decision relating to the matter in which he has an interest, unless—
 - (a) in the case of a meeting of the trustee corporation the other members who are present when the discussion or decision falls to take place or is made have resolved unanimously that the interest is to be disregarded, or
 - (b) in the case of a meeting of a committee or sub-committee, the other members of the committee or sub-committee who are present when the discussion or decision falls to take place or is made have resolved in the manner authorised by the trustee corporation that the interest is to be disregarded.
- (4) In granting authorisations for the purposes of sub-paragraph (3)(b), the trustee corporation must secure that a resolution for those purposes does not allow a person to take part in a discussion or decision at a meeting of a committee established by virtue of paragraph 9(1)(a) or of a sub-committee of such a committee unless at least the following requirements are met—
 - (a) the number of other members of the committee or sub-committee in favour of the resolution is not less than two-thirds of those who are both present and entitled to vote on the resolution, and
 - (b) the number of other members of the committee or sub-committee in favour of the resolution is not less than its quorum.
- (5) For the purposes of this paragraph a general notification given at or sent to a relevant meeting that—
 - (a) a person—
 - (i) has an interest (as member, officer, employee or otherwise) in a specified body corporate or firm, or
 - (ii) is connected with a specified person (other than a body corporate or firm), and
 - (b) the person is to be regarded as interested in any matter involving that body corporate or firm or, as the case may be, person,is to be regarded as compliance with sub-paragraph (2) in relation to any such matter for the purposes of that meeting and any subsequent relevant meeting of the same type which is held while the notification is in force.
- (6) Section 252 of the Companies Act 2006 (c. 46) (persons connected with a director) applies for determining whether a person is connected with another person for the purposes of sub-paragraph (5) as it applies for determining whether a person is connected with a director of a company.
- (7) A notification for the purposes of sub-paragraph (5) remains in force until it is withdrawn.
- (8) For the purposes of sub-paragraph (5) each of the following is a “relevant meeting”—
 - (a) a meeting of the trustee corporation,
 - (b) a meeting of a committee,
 - (c) a meeting of a sub-committee,and a relevant meeting is of the same type as another relevant meeting if both meetings are relevant meetings by virtue of falling within the same paragraph of this sub-paragraph.

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- (9) A person required to make a declaration for the purposes of this paragraph in relation to any meeting—
- (a) is not required to attend the meeting, but
 - (b) is to be taken to have complied with the requirements of this paragraph if he takes reasonable steps to secure that notice of his interest is read out at, and taken into consideration at, the meeting.
- (10) For the purposes of this paragraph a person is not to be taken to have an interest in any matter for these reasons only—
- (a) being or having previously been engaged, on behalf of the relevant authority, in activities connected with the discharge of the authority's functions relating to occupational pension schemes or personal pension schemes, or
 - (b) having previously been a trustee or manager of such a scheme or an employee of such a trustee or manager.

Delegation

- 14 The trustee corporation may, subject to an order or rules under section 67, delegate any function conferred on it to—
- (a) a member,
 - (b) an employee or other member of staff, or
 - (c) a committee.

Validity of proceedings

- 15 The validity of proceedings of the trustee corporation, a committee or a sub-committee is not affected by a vacancy among the members or a defect in appointment.

Authentication of the trustee corporation's seal

- 16 (1) The application of the trustee corporation's seal must be authenticated by the signature of—
- (a) a member, or
 - (b) any other person authorised by the trustee corporation (whether generally or specially) for the purpose.
- (2) A document purporting to be duly executed under the seal of the trustee corporation, or to be signed on behalf of the trustee corporation, is to be received in evidence and, except to the extent that the contrary is shown, taken to be duly so executed or signed.
- (3) This paragraph does not apply to Scotland.

Annual report

- 17 (1) As soon as is reasonably practicable after the end of each financial year, the trustee corporation must send to the Secretary of State a report on the exercise of the trustee corporation's functions during that year.
- (2) The report must include—
- (a) a report on the trustee corporation's proceedings during the year, and

- (b) any information the Secretary of State directs, relating to the financial position of the trustee corporation or any other matter.
- (3) The Secretary of State must lay before Parliament a copy of each report received under this paragraph.

PART 3

MONEY

Finance

- 18 (1) The Secretary of State may, with the consent of the Treasury, give financial assistance to the trustee corporation.
- (2) The assistance—
 - (a) may take the form of grants, loans, guarantees or indemnities;
 - (b) may be given on conditions;
 - (c) in the case of a loan, must be given on a condition requiring the loan to be repaid with interest at a rate approved by the Treasury.
- (3) Section 5 of the National Loans Act 1968 (c. 13) (rates of interest on certain loans out of the National Loans Fund) has effect as respects the rate of interest on a loan under this paragraph as it has effect as respects a rate of interest within subsection (1) of that section.
- 19 The trustee corporation may make charges in connection with the exercise of its functions.

Accounts

- 20 (1) The trustee corporation must—
 - (a) keep proper accounting records, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) A statement under sub-paragraph (1)(b) must be prepared by the trustee corporation in such form as the Secretary of State may direct.
- (3) The trustee corporation must send a copy of a statement under sub-paragraph (1)(b)—
 - (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General.
- (4) A copy of a statement must be sent under sub-paragraph (3) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may direct.
- (5) The Comptroller and Auditor General must—
 - (a) examine, certify and report on a statement received under this paragraph, and
 - (b) send a copy of the certified statement and of the report on it to the Secretary of State as soon as possible.

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- (6) The Secretary of State must lay before Parliament a copy of the statement and report sent under sub-paragraph (5)(b).

PART 4

SUPPLEMENTARY

Disqualification

- 21 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”
- 22 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”

Records and freedom of information

- 23 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), in paragraph 3, insert at the appropriate place in Part 2 of the Table (other establishments and organisations)—
“The trustee corporation established by section 75 of the Pensions Act 2008.”
- 24 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities: miscellaneous), insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”

Equality

- 25 In Schedule 1A to the Race Relations Act 1976 (c. 74) (bodies subject to general duty), in Part 2, under “Other Bodies, Etc” insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”

Interpretation

- 26 (1) In this Schedule—
“financial year” means such period as the Secretary of State may by order prescribe;
“occupational pension scheme” and “personal pension scheme”—
(a) in relation to England and Wales or Scotland, have the same meanings as in the Pension Schemes Act 1993 (c. 48) (see section 1 of that Act);
(b) in relation to Northern Ireland, have the same meanings as in the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (see section 1 of that Act);
“the relevant authority” means—
(a) in relation to England and Wales or Scotland, the Secretary of State;

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(b) in relation to Northern Ireland, the Department for Social Development in Northern Ireland.

(2) In this Schedule references to the relevant authority's functions relating to occupational pension schemes or personal pension schemes include such functions conferred at any time after the passing of this Act.

SCHEDULE 2

Section 101

REVALUATION OF ACCRUED BENEFITS ETC

PART 1

REVALUATION OF ACCRUED PENSION BENEFITS

Amendments to Schedule 3 to the 1993 Act

1 This Part makes amendments to Schedule 3 to the Pension Schemes Act 1993 (c. 48) (methods of revaluing accrued pension benefits).

2 In paragraph 1 (the final salary method), for sub-paragraphs (1) to (3) substitute—

“(1) The final salary method is to add to the amount that would be payable but for Chapter 2 of Part 4, or regulations made under it, the additional amount specified in sub-paragraph (1A), (1B), (1C) or (1D) (whichever applies).

(1A) Where—

- (a) the termination of pensionable service occurs before 1st January 1991, and
- (b) the whole of the member's pensionable service falls on or after 1st January 1985,

the additional amount is the appropriate higher revaluation percentage of the accrued benefit.

(1B) Where—

- (a) the termination of pensionable service occurs before 1st January 1991, and
- (b) some of the member's pensionable service falls before 1st January 1985,

the additional amount is such proportion of the appropriate higher revaluation percentage of the accrued benefit as the member's pensionable service falling on or after 1st January 1985 bears to the member's total pensionable service.

(1C) Where the termination of pensionable service occurs—

- (a) on or after 1st January 1991, but
- (b) before the day on which section 101 of the Pensions Act 2008 comes into force (“the 2008 Act commencement day”),

the additional amount is the appropriate higher revaluation percentage of the accrued benefit.

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- (1D) Where the termination of pensionable service occurs on or after the 2008 Act commencement day, the additional amount is the aggregate of—
- (a) the appropriate higher revaluation percentage of so much of the accrued benefit as is attributable to the member’s pensionable service falling before the 2008 Act commencement day, and
 - (b) the appropriate lower revaluation percentage of so much of the accrued benefit as is attributable to the member’s pensionable service falling on or after that day.

- (1E) In this paragraph “the accrued benefit” means the amount of the pension or other benefit which on the termination date has accrued to the member or to any other person in respect of the member (excluding any part of that amount which consists of—
- (a) the member’s guaranteed minimum, or
 - (b) the guaranteed minimum of the member’s widow, widower or surviving civil partner).

- (2) For the purposes of this paragraph, a member’s pensionable service includes any notional pensionable service which is credited to the member by the scheme (“notional service”).

But notional service shall not be taken into account in determining which of sub-paragraphs (1A), (1B), (1C) and (1D) applies.

- (3) For the purposes of determining the additional amount where sub-paragraph (1B) applies, any notional service shall be taken to have ended immediately before the member’s actual pensionable service began.

- (3A) For the purposes of determining the additional amount where sub-paragraph (1D) applies, any notional service shall be treated as falling on or after the 2008 Act commencement day only if, or to the extent that, it is so treated for the purposes of the scheme.”

- 3 (1) Paragraph 2 (the revaluation percentage and the appropriate revaluation percentage) is amended as follows.

- (2) In sub-paragraph (1), for “specify a revaluation percentage for each period” substitute “specify (so far as it is necessary to do so)—

- (a) a higher revaluation percentage, and
- (b) a lower revaluation percentage,

for each period”.

- (3) For sub-paragraph (3) substitute—

“(3) The higher revaluation percentage which the Secretary of State is to specify in relation to a revaluation period is the lesser of—

- (a) the percentage which appears to the Secretary of State to be the percentage increase in the general level of prices in Great Britain during the period which is the reference period in relation to the revaluation period (“the inflation percentage”), and
- (b) the higher maximum rate.

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(3A) The lower revaluation percentage which the Secretary of State is to specify in relation to a revaluation period is the lesser of—

- (a) the percentage which appears to the Secretary of State to be the inflation percentage, and
- (b) the lower maximum rate.”

(4) For sub-paragraphs (6) and (7) substitute—

“(6) For the purposes of sub-paragraph (3)(b) and (3A)(b)—

“the higher maximum rate”, in relation to a revaluation period, is—

- (a) in the case of a revaluation period of 12 months, 5 per cent; and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices increased at the rate of 5 per cent compound per annum during the reference period in question;

“the lower maximum rate”, in relation to a revaluation period, is—

- (a) in the case of a revaluation period of 12 months, 2.5 per cent; and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices increased at the rate of 2.5 per cent compound per annum during the reference period in question.

(7) In paragraph 1—

“the appropriate higher revaluation percentage” means the higher revaluation percentage specified in the last calendar year before the date on which the member attains normal pension age as the higher revaluation percentage for the revaluation period which is of the same length as the number of complete years in the pre-pension period;

“the appropriate lower revaluation percentage” has a corresponding meaning.”

PART 2

REVALUATION OF ACCRUED AMOUNTS ETC

Amendments to Schedule 7 to the 2004 Act

- 4 This Part makes amendments to Schedule 7 to the Pensions Act 2004 (c. 35) (pension compensation provisions).
- 5 (1) Paragraph 12 (active members who have not attained normal pension age at assessment date: the revaluation amount for the revaluation period) is amended as follows.
 - (2) In sub-paragraph (3), for paragraph (b) substitute—
 - “(b) in any other case, the aggregate of—

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- (i) the higher revaluation percentage of so much of the accrued amount as is attributable to the active member’s pensionable service falling before the day on which section 101 of the Pensions Act 2008 comes into force (“the 2008 Act commencement day”), and
- (ii) the lower revaluation percentage of so much of the accrued amount as is attributable to the active member’s pensionable service falling on or after that day.”

(3) After sub-paragraph (3) insert—

“(3A) For the purposes of sub-paragraph (3)(b)—

- (a) any service within paragraph 36(4)(b) (notional pensionable service) is to be treated as falling on or after the 2008 Act commencement day if, or to the extent that, it is so treated for the purposes of the scheme;
- (b) regulations may make provision in relation to cases where it is unclear whether or not any particular pensionable service (either actual or notional) falls, or is to be treated as falling, on or after that day.”

(4) For sub-paragraphs (4) and (5) substitute—

“(4) In sub-paragraph (3)(b)—

“the higher revaluation percentage” means the lesser of—

- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in the prescribed manner (“the inflation percentage”), and
- (b) the higher maximum revaluation rate;

“the lower revaluation percentage” means the lesser of—

- (a) the inflation percentage, and
- (b) the lower maximum revaluation rate.

(5) For the purposes of sub-paragraph (4)—

“the higher maximum revaluation rate”, in relation to the revaluation period, is—

- (a) if that period is a period of 12 months, 5%, and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period;

“the lower maximum revaluation rate”, in relation to the revaluation period, is—

- (a) if that period is a period of 12 months, 2.5%, and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 2.5% compound per annum during that period.

This is subject to paragraph 29 (power of Board to determine maximum revaluation rates etc).”

Status: This is the original version (as it was originally enacted).

- 6 (1) Paragraph 17 (deferred members who have not attained normal pension age at assessment date: the revaluation amount for the second revaluation period) is amended as follows.
- (2) In sub-paragraph (3), for paragraph (b) substitute—
- “(b) in any other case, the aggregate of—
- (i) the higher revaluation percentage of so much of the relevant amount as is attributable to the deferred member’s pensionable service falling before the day on which section 101 of the Pensions Act 2008 comes into force (“the 2008 Act commencement day”), and
- (ii) the lower revaluation percentage of so much of the relevant amount as is attributable to the deferred member’s pensionable service falling on or after that day.”
- (3) After sub-paragraph (3) insert—
- “(3A) For the purposes of sub-paragraph (3)(b)—
- (a) any service within paragraph 36(4)(b) (notional pensionable service) is to be treated as falling on or after the 2008 Act commencement day if, or to the extent that, it is so treated for the purposes of the scheme;
- (b) regulations may make provision in relation to cases where it is unclear whether or not any particular pensionable service (either actual or notional) falls, or is to be treated as falling, on or after that day.”
- (4) For sub-paragraphs (4) and (5) substitute—
- “(4) In sub-paragraph (3)—
- “the higher revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in the prescribed manner (“the inflation percentage”), and
- (b) the higher maximum revaluation rate;
- “the lower revaluation percentage” means the lesser of—
- (a) the inflation percentage, and
- (b) the lower maximum revaluation rate;
- “the relevant amount” means the aggregate of—
- (a) the accrued amount, and
- (b) the revaluation amount for the first revaluation period (see paragraph 16).
- (5) For the purposes of sub-paragraph (3)—
- “the higher maximum revaluation rate”, in relation to the second revaluation period, is—
- (a) if that period is a period of 12 months, 5%, and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period;

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“the lower maximum revaluation rate”, in relation to the second revaluation period, is—

- (a) if that period is a period of 12 months, 2.5%, and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices in Great Britain increased at the rate of 2.5% compound per annum during that period.

This is subject to paragraph 29 (power of Board to determine maximum revaluation rates etc).”

- 7 In paragraph 29 (Board’s powers to alter rates of revaluation etc), for sub-paragraph (1) substitute—

“(1) The Board may determine what is to be the higher maximum revaluation rate or the lower maximum revaluation rate for the purposes of paragraphs 12(4) and 17(4), and where it does so the relevant definitions in paragraphs 12(5) and 17(5) do not apply.”

PART 3

CONSEQUENTIAL AMENDMENTS

- 8 (1) Section 51ZA of the Pensions Act 1995 (c. 26) (meaning of “the appropriate percentage”) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “revaluation percentage” substitute “higher revaluation percentage”;
 - (b) for paragraph (b) substitute—
 - “(b) in the case of a category Y pension, means the lower revaluation percentage for that period.”
- (3) In subsection (2), for ““the revaluation percentage”” substitute ““the higher revaluation percentage”, “the lower revaluation percentage””.

SCHEDULE 3

Section 102

CONSOLIDATION OF ADDITIONAL PENSION

After Schedule 4B to the Social Security Contributions and Benefits Act 1992 (c. 4) insert—

“SCHEDULE 4C

Section 45

ADDITIONAL PENSION: CALCULATION OF REVALUED CONSOLIDATED AMOUNT

- 1 For the purposes of this Schedule, the “consolidation date” means the first day of the flat rate introduction year.
- 2 The Secretary of State must, in accordance with the following provisions of this Schedule, calculate an amount representing the weekly rate of the additional

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- pension in a pensioner's Category A retirement pension in relation to tax years before the flat rate introduction year.
- 3 The Secretary of State must comply with paragraph 2 before the pensioner attains pensionable age.
- 4 The calculation under paragraph 2 shall be treated for the purposes of Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14) (social security decisions and appeals) as a decision under section 8 of that Act.
- 5 The amount to be calculated under paragraph 2 is the sum of—
- (a) the GRB amount, and
 - (b) the section 45(2)(a), (b) and (c) amounts.
- 6 The GRB amount is the amount that would, on the pensioner attaining pensionable age, be the increase in the weekly rate of retirement benefit calculated under section 36(1) of the National Insurance Act 1965 (c. 51) (graduated retirement benefit) if that provision applied in the case of a pensioner attaining pensionable age on or after 6th April 2020.
- 7 (1) The section 45(2)(a), (b) and (c) amounts are the amounts that would, on the pensioner attaining pensionable age, be the weekly equivalents calculated under section 45(2)(a), (b) and (c) of this Act if section 45(2) applied in the case of a pensioner attaining pensionable age on or after 6th April 2020, but applying the provisions of this Act with the following modifications.
- (2) The following provisions apply as if a reference to the end of the final relevant year were a reference to the consolidation date—
- (a) section 44(5A)(c);
 - (b) in Schedule 4A, paragraphs 2(2)(b), 6(2)(a) and 7(2)(b).
- 8 (1) This paragraph applies to any calculation under paragraph 2 above.
- (2) The calculation is to be made in accordance with all relevant provisions as they have effect on the consolidation date.
- (3) For the purposes of the calculation, it is to be assumed that any entitlement of the pensioner to graduated retirement benefit or to a retirement pension is not deferred.
- 9 The revalued consolidated amount for the purposes of section 45(2A)(a) is the sum of the following amounts—
- (a) the amount calculated under paragraph 2;
 - (b) that amount multiplied by the revaluing percentage specified in the last order under section 148AB of the Administration Act to come into force before the beginning of the tax year in which the pensioner attains pensionable age.”

SCHEDULE 4

Section 104

ADDITIONAL PENSION ETC: MINOR AND CONSEQUENTIAL AMENDMENTS

Social Security Contributions and Benefits Act 1992 (c. 4)

- 1 The Social Security Contributions and Benefits Act 1992 is amended as follows.

Status: This is the original version (as it was originally enacted).

- 2 In section 21(5A)(c) (contribution conditions), after “5(2)(b) and (4)(a)” insert “, 5A(3)(a)”.
- 3 In section 39(1) (rate of widowed mother’s allowance and widow’s pension), for “46(2)” substitute “46”.
- 4 (1) Section 39C (rate of widowed parent’s allowance and bereavement allowance) is amended as follows.
- (2) In subsection (1)—
- (a) for “45” substitute “45AA”;
- (b) for “and Schedule 4A” substitute “and Schedules 4A to 4C”;
- (c) for “46(2) and (4)” substitute “46”.
- (3) In subsections (3) and (4)—
- (a) for “45” substitute “45AA”;
- (b) for “and Schedule 4A” substitute “and Schedules 4A to 4C”.
- 5 (1) After section 45 (additional pension in Category A retirement pension) insert—

“45AA Effect of working families' tax credit and disabled person’s tax credit on earnings factor

- (1) For the purposes of calculating additional pension under sections 44 and 45 where, in the case of any relevant year, working families' tax credit is paid in respect of any employed earner, or disabled person’s tax credit is paid to any employed earner, section 44(6)(a)(i) shall have effect as if—
- (a) where that person had earnings of not less than the qualifying earnings factor for that year, being earnings upon which primary class 1 contributions were paid or treated as paid (“qualifying earnings”) in respect of that year, the amount of those qualifying earnings were increased by the aggregate amount (“AG”) of working families' tax credit, or, as the case may be, disabled person’s tax credit paid in respect of that year, and
- (b) in any other case, that person had qualifying earnings in respect of that year and the amount of those qualifying earnings were equal to AG plus the qualifying earnings factor for that year.
- (2) The reference in subsection (1) to the person in respect of whom working families' tax credit is paid—
- (a) where it is paid to one of a couple, is a reference to the prescribed member of the couple, and
- (b) in any other case, is a reference to the person to whom it is paid.
- (3) A person’s qualifying earnings in respect of any year cannot be treated by virtue of subsection (1) as exceeding the upper earnings limit for that year multiplied by 53.
- (4) Subsection (1) does not apply to any woman who has made, or is treated as having made, an election under regulations under section 19(4), which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.
- (5) In this section—
- “couple” has the same meaning as in Part 7 (see section 137);

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“relevant year” has the same meaning as in section 44.”

- (2) Sub-paragraph (1), together with paragraphs 4(2)(a) and (3)(a), 9(2)(a) and (3)(a) and 11 (which make amendments consequential on sub-paragraph (1)), are referred to in the following provisions of this paragraph as “the relevant provisions”.
 - (3) Subject to sub-paragraphs (4) and (5), the relevant provisions apply to a person (“the pensioner”) who attains pensionable age after 5 April 1999 and, in relation to such a person—
 - (a) have effect for 1995-96 and subsequent tax years, and
 - (b) are deemed so to have had effect (with the necessary modifications) during the period—
 - (i) beginning with 6 April 2003, and
 - (ii) ending with the coming into force of this paragraph.
 - (4) Where the pensioner is a woman, the relevant provisions have effect in the case of additional pension falling to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 (c. 4) by virtue of section 39 of that Act (widowed mother’s allowance and widow’s pension), including Category B retirement pension payable under section 48B(4), if her husband—
 - (a) dies after 5 April 1999, and
 - (b) has not attained pensionable age on or before that date.
 - (5) The relevant provisions have effect, where additional pension falls to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 as applied by section 48A or 48B(2) of that Act (other Category B retirement pension) if—
 - (a) the pensioner attains pensionable age after 5 April 1999, and
 - (b) the pensioner’s spouse has not attained pensionable age on or before that date.
- 6 (1) Section 46 (modifications of section 45 for calculating the additional pension in certain benefits) is amended as follows.
- (2) In subsection (2), for “, 48B(2) or 48BB(5)” substitute “or 48B(2)”.
 - (3) After subsection (4) insert—

“(5) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of prescribed provisions of this Act, that section has effect subject to the following modifications—

 - (a) the omission in subsection (2) of the words “but before 6th April 2020”, and
 - (b) the omission of subsection (2A).

(6) Regulations under subsection (5) may prescribe a provision in relation to—

 - (a) all cases, or
 - (b) cases of a prescribed description.”
- 7 In section 48A(4) (category B retirement pension for married person)—
- (a) for “and 4B” substitute “to 4C”;
 - (b) for “46(2)” substitute “46”.
- 8 In section 48B(2) (category B retirement pension for widows and widowers)—

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- (a) for “and 4B” substitute “to 4C”;
 - (b) for “46(2)” substitute “46”.
- 9 (1) Section 48BB (category B retirement pension: entitlement by reference to benefits under section 39A or 39B) is amended as follows.
- (2) In subsection (5)—
 - (a) for “45” substitute “45AA”;
 - (b) after “45AA” (inserted by paragraph (a) above) insert “and 45B”;
 - (c) for “and 4B” substitute “to 4C”;
 - (d) for “46(3)” substitute “46”.
 - (3) In subsection (6)—
 - (a) for “45” substitute “45AA”;
 - (b) after “45AA” (inserted by paragraph (a) above) insert “and 45B”.
- 10 In section 48C(4) (category B retirement pension: general), for “and 4B” substitute “to 4C”.
- 11 In section 51(2) and (3) (category B retirement pension for widowers), for “45” substitute “45AA”.
- 12 (1) Schedule 4B (additional pension: accrual rates for purposes of section 45(2)(d)) is amended as follows.
- (2) In paragraph 2 (application of Part 2 of Schedule)—
 - (a) after “if” insert “—
(a)”;
 - (b) after paragraph (a) (created by virtue of paragraph (a) above) insert “and
(b) there is a surplus in the pensioner’s earnings factor for the year.”
 - (3) In paragraph 3 (appropriate amount for year)—
 - (a) in paragraph (a), for the words from “there is” to “which” substitute “the pensioner’s earnings factor for the year”;
 - (b) in paragraph (b), for “there is such a surplus which” substitute “that earnings factor”.
 - (4) In paragraph 5(a), for “surplus” substitute “earnings factor”.
 - (5) In paragraph 6 (application of Part 3 of Schedule)—
 - (a) after “if” insert “—
(a)”;
 - (b) after paragraph (a) (created by virtue of paragraph (a) above) insert “and
(b) there would be a surplus in the pensioner’s earnings factor for the year if section 48A of the Pension Schemes Act 1993 did not apply in relation to any tax week falling in the year.”
 - (6) In paragraph 8(1) (calculation of amount A: assumed surplus not exceeding LET), for the words from “there” to “which” substitute “the pensioner’s assumed earnings factor for the year”; and, accordingly, in the heading before paragraph 8 for “*surplus*” substitute “*earnings factor*”.
 - (7) In paragraph 9 (calculation of amount A: assumed surplus exceeding LET)—

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- (a) in sub-paragraph (1), for the words from “there” to “which” substitute “the pensioner’s assumed earnings factor for the year”;
- (b) in sub-paragraph (2)(a), for “assumed surplus” substitute “assumed earnings factor”;

and accordingly in the heading before paragraph 9 for “*surplus*” substitute “*earnings factor*”.

- (8) In paragraph 10(1)(a) (amount B), for “assumed surplus” substitute “pensioner’s assumed earnings factor”.
- (9) In paragraph 12 (interpretation)—
 - (a) omit the definition of “assumed surplus”;
 - (b) after the definition of “the QEF” insert—

““the pensioner’s assumed earnings factor”, in relation to a year, means the earnings factor that the pensioner would have for the year if section 48A(1) of the Pension Schemes Act 1993 did not apply in relation to any tax week falling in the year;”.

- 13 In Schedule 7 (industrial injuries benefits) in paragraph 3(3), after “section 46” insert “or 46A”.

Social Security Administration Act 1992 (c. 5)

- 14 After section 148AA of the Social Security Administration Act 1992 (revaluation of flat rate accrual amount) insert—

“148AB Revaluation of consolidated amount

- (1) The Secretary of State shall, in the tax year following the flat rate introduction year and in each subsequent tax year, review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place during the review period.
- (2) In this section “the review period” means the period since such day in the tax year preceding the flat rate introduction year as the Secretary of State may determine.
- (3) If on a review it appears to the Secretary of State that the general level of earnings has increased during the review period, the Secretary of State must make an order under this section specifying the percentage of the increase.
- (4) The percentage specified in the order is the “revaluing percentage” for the purposes of Schedule 4C to the Contributions and Benefits Act (additional pension: calculation of revalued consolidated amount).
- (5) Subsection (3) does not require the Secretary of State to make an order if it appears to the Secretary of State that the effect of the order on amounts calculated in accordance with that Schedule would be inconsiderable.
- (6) The Secretary of State may, for the purposes of subsection (3), adjust any amount by rounding it up or down to such extent as the Secretary of State thinks appropriate.

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- (7) If on a review the Secretary of State determines that no order under this section is required, the Secretary of State must lay before Parliament a report explaining the reasons for arriving at that determination.
- (8) For the purposes of a review under this section the Secretary of State shall estimate the general level of earnings in such manner as the Secretary of State thinks fit.”

Pension Schemes Act 1993 (c. 48)

- 15 The Pension Schemes Act 1993 is amended as follows.
- 16 (1) Section 46 (effect of entitlement to guaranteed minimum pensions on payment of social security benefits) is amended as follows.
- (2) In subsection (6), in the substitute paragraph 3(3) of Schedule 7 to the Social Security Contributions and Benefits Act 1992, after “section 46(1)” insert “or 46A(2)”.
- 17 (1) Section 47 (further provisions concerning entitlement to guaranteed minimum pensions) is amended as follows.
- (2) At the end of the heading add “and s.46A”.
- (3) In subsections (2), (3), (5), (6), (7), (8) and (9), for “section 46” substitute “sections 46 and 46A”.
- 18 In section 48(2) (reduced benefits where minimum payments or minimum contributions paid), for “section 46” substitute “sections 46 and 46A”.
- 19 In section 49(b) (women, married women and widows), after “46(1),” insert “46A(2),”.
- 20 In section 164(5) (Crown employment), after “46(1),” insert “46A(2),”.
- 21 In section 165(2)(b) (cases with a foreign element), after “those subsections),” insert “section 46A(2),”.
- 22 (1) In section 167(4) (application of provisions relating to social security administration), for “section 46” substitute “sections 46 and 46A”.
- (2) Sub-paragraph (1) has effect only until the repeal of section 167(4) by the Social Security Act 1998 (c. 14) has come into force for all purposes.

SCHEDULE 5

Section 116

PENSION COMPENSATION PAYABLE ON DISCHARGE OF PENSION COMPENSATION CREDIT

PART 1

INTRODUCTORY

Introductory

- 1 This Schedule applies for the purposes of determining the compensation payable to or in respect of a person entitled to compensation on the discharge of a pension compensation credit in accordance with this Chapter.

Interpretation

- 2 In this Schedule—
“the initial annual rate of compensation” is the amount determined by the Board under section 116(4);
“the pension compensation age” of the transferee is the age determined in accordance with paragraph 3.

Pension compensation age

- 3 (1) This paragraph applies for the purpose of determining the transferee’s “pension compensation age”.
- (2) Sub-paragraphs (3) and (4) apply where the transferor’s PPF compensation, or any of it, is determined under Schedule 7 to the Pensions Act 2004 (c. 35).
- (3) Where the transferor’s right to PPF compensation arises by virtue of his or her status as a member of a pension scheme for which the Board assumed responsibility in accordance with Chapter 3 of Part 2 of that Act, the transferee’s pension compensation age is the same as—
(a) the normal pension age of the transferor, or
(b) where the transferor was a pension credit member, the normal benefit age of the transferor.
- (4) Where the transferor’s right to PPF compensation arises by virtue of his or her status as a person connected with a member of a scheme for which the Board assumed responsibility in accordance with Chapter 3 of Part 2 of that Act, the transferee’s pension compensation age is the same as—
(a) the normal pension age of that member, or
(b) where that member was a pension credit member, the normal benefit age of that member.
- (5) Sub-paragraph (6) applies where the transferor’s PPF compensation is determined only under this Schedule.
- (6) The transferee’s pension compensation age is the same as the pension compensation age of the transferor.

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- (7) In this paragraph, “normal benefit age”, “normal pension age” and “pension credit member” have the same meanings as in Schedule 7 to the Pensions Act 2004.

PART 2

TRANSFeree ATTAINS PENSION COMPENSATION AGE BEFORE OR ON TRANSFER DAY

Compensation payable to transferee

- 4 (1) Compensation is payable in accordance with this paragraph where the transferee attains pension compensation age before or on the transfer day.
- (2) The transferee is entitled to periodic compensation commencing on the transfer day and continuing for life.
- (3) The annual rate of the periodic compensation is the aggregate of—
- (a) the initial annual rate of compensation, and
 - (b) any increases under paragraph 17 (annual increases in periodic compensation).
- (4) This paragraph is subject to paragraph 18 (compensation cap).

Compensation payable to widow, widower or surviving civil partner

- 5 (1) This paragraph applies where —
- (a) the transferee dies after liability in respect of the pension compensation credit has been discharged under section 116,
 - (b) the transferee was before death entitled under paragraph 4 to periodic compensation commencing on the transfer day, and
 - (c) the transferee is survived by a widow, widower or surviving civil partner (“the surviving partner”).
- (2) Subject to sub-paragraph (4), the surviving partner is entitled to periodic compensation commencing on the day following the transferee’s death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 4 had the transferee not died.
- (4) The surviving partner is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

PART 3

TRANSFeree ATTAINS PENSION COMPENSATION AGE AFTER TRANSFER DAY

Compensation payable to transferee

- 6 (1) Compensation is payable in accordance with this paragraph where the transferee attains pension compensation age after the transfer day.
- (2) The transferee is entitled to periodic compensation commencing at that age and continuing for life.
- (3) The annual rate of the periodic compensation is the aggregate of—
- (a) the initial annual rate of compensation,
 - (b) the revaluation amount (see paragraph 8), and
 - (c) any increases under paragraph 17 (annual increases in periodic compensation).
- (4) This paragraph is subject to—
- paragraph 9 (commutation),
 - paragraph 10 (early payment),
 - paragraph 11 (deferred payment),
 - paragraph 15 (terminal illness lump sum), and
 - paragraph 18 (compensation cap).

Compensation payable to widow, widower or surviving civil partner

- 7 (1) This paragraph applies where—
- (a) the transferee dies after liability in respect of the pension compensation credit has been discharged under section 116,
 - (b) the transferee—
 - (i) was, before death, entitled under paragraph 6 to periodic compensation commencing at pension compensation age, or
 - (ii) would have become so entitled had he or she not died, and
 - (c) the transferee is survived by a widow, widower or surviving civil partner (“the surviving partner”).
- (2) Subject to sub-paragraph (4), the surviving partner is entitled to periodic compensation commencing on the day following the transferee’s death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is—
- (a) where the transferee dies after attaining pension compensation age, half of the annual rate of the periodic compensation (including the revaluation amount (see paragraph 8) and any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 6 had the transferee not died;
 - (b) where the transferee dies before attaining pension compensation age, half of the annual rate of the periodic compensation (including the revaluation amount (see paragraph 8) and any increases under paragraph 17) to which the transferee would at that time have been entitled under paragraph 6 if—

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- (i) the transferee’s pension compensation age had been the transferee’s actual age immediately before the date of the transferee’s death, and
 - (ii) the transferee had not died.
- (4) For the purposes of this paragraph, a person’s entitlement under paragraph 6 is to be determined disregarding paragraph 15(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).
- (5) The surviving partner is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

Revaluation

- 8 (1) This paragraph applies for the purpose of calculating the revaluation amount mentioned in paragraph 6(3)(b).
- (2) In this paragraph, “the revaluation period” means the period—
- (a) beginning with the transfer day, and
 - (b) ending with the day before the transferee attains pension compensation age.
- (3) The revaluation amount is—
- (a) in a case in which the revaluation period is less than a month, nil;
 - (b) in any other case, the revaluation percentage of the initial annual rate of compensation.
- (4) For the purposes of sub-paragraph (3)(b) “the revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices in Great Britain during the revaluation period, determined in the prescribed manner, and
 - (b) the maximum revaluation rate.
- (5) For the purposes of sub-paragraph (4)(b) “the maximum revaluation rate” is—
- (a) in a case in which the revaluation period is a period of 12 months, 2.5%, and
 - (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (4)(a) had the general level of prices in Great Britain increased at the rate of 2.5% compound per annum during that period.

This is subject to paragraph 20 (power of Board to alter rates of revaluation and indexation).

Commutation of periodic compensation

- 9 (1) A transferee who is entitled to periodic compensation under paragraph 6 may, in prescribed circumstances, opt to commute for a lump sum a portion of the periodic compensation with effect from the time it becomes payable.
- (2) Except in such circumstances as may be prescribed, the portion commuted under sub-paragraph (1) must not exceed 25%.
- (3) Any reduction required to be made by virtue of paragraph 18 (compensation cap) must be made before determining the amount of the transferee’s periodic compensation which may be commuted under this paragraph.

- (4) Where the transferee opts to commute any part of his or her periodic compensation under this paragraph, the lump sum payable under sub-paragraph (1) is the actuarial equivalent of the commuted portion of the periodic compensation calculated from tables designated for this purpose by the Board.
- (5) The Board must publish in such manner as it considers appropriate the tables designated by it for the purposes of sub-paragraph (4).
- (6) Regulations may prescribe the manner in which an option to commute periodic compensation under this paragraph may be exercised.
- (7) The Secretary of State may, by order, amend sub-paragraph (2) so as to substitute a different percentage for that for the time being specified there.

Early payment of compensation

- 10 (1) Regulations may prescribe circumstances in which, and conditions subject to which, the transferee may become entitled to periodic compensation under paragraph 6 before attaining pension compensation age.
- (2) The Board must determine the amount of the actuarial reduction to be applied to compensation to which the transferee is entitled by virtue of this paragraph.
- (3) Where, by virtue of this paragraph, periodic compensation is payable to the transferee before he or she attains pension compensation age, paragraph 8(2)(b) (end of revaluation period) applies as if the reference to the day before the transferee attains pension compensation age were to the day on which compensation is payable by virtue of this paragraph.

Deferral of compensation

- 11 (1) Regulations may prescribe circumstances in which, and conditions subject to which, the transferee may opt to defer entitlement to periodic compensation under paragraph 6 until some time after attaining pension compensation age.
- (2) The Board must determine the amount of the actuarial increase to be applied to compensation to which the transferee is entitled by virtue of this paragraph.
- (3) Where, by virtue of this paragraph, periodic compensation is payable to the transferee after he or she attains pension compensation age, paragraph 8(2)(b) (end of revaluation period) applies as if the reference to the day before the transferee attains pension compensation age were to the day on which compensation is payable by virtue of this paragraph.

Terminal illness lump sum: eligibility

- 12 (1) This paragraph applies where all of the following conditions are met—
 - (a) the transferee is terminally ill;
 - (b) if the transferee lived to the relevant age, he or she would become entitled on attaining that age to compensation under paragraph 6 in respect of the pension compensation credit;
 - (c) the transferee has not yet become entitled to any compensation under this Chapter in respect of the pension compensation credit;
 - (d) the whole or any part of the transferee's lifetime allowance is available.

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- (2) The transferee may make an application to the Board to commute the future entitlement mentioned in sub-paragraph (1)(b) for a lump sum (“a terminal illness lump sum”) payable on the granting of the application.
- (3) For the purposes of this Chapter, a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person’s death in consequence of that disease can reasonably be expected within 6 months.
- (4) In this paragraph—
 - “lifetime allowance”, in relation to a person, has the same meaning as in Part 4 of the Finance Act 2004 (c. 12) (pension schemes etc) (see section 218 of that Act);
 - “relevant age”, in relation to a person, means—
 - (a) in relation to compensation entitlement to which has been accelerated or deferred under regulations under paragraph 10 or (as the case may be) 11, the age at which the person becomes entitled to the compensation in accordance with the regulations;
 - (b) in relation to compensation entitlement to which has not been so accelerated or deferred, pension compensation age.

Terminal illness lump sum: application and evidence

- 13 An application for a terminal illness lump sum—
- (a) must be made in writing, either on a form approved by the Board for the purposes of this paragraph or in such other manner as the Board may accept as sufficient in the circumstances of the case;
 - (b) must be accompanied by such information as the Board may require for the purpose of determining the application.

Terminal illness lump sum: determination of application

- 14 (1) The Board must determine an application for a terminal illness lump sum in accordance with this paragraph.
- (2) The Board must—
- (a) if satisfied that the conditions in paragraph 12(1) are met, grant the application;
 - (b) in any other case (subject to sub-paragraph (3)), reject the application.
- (3) The Board may hold over the application for determination at a later date if it is satisfied that—
- (a) although the condition in paragraph 12(1)(a) is not met, the transferee suffers from a progressive disease and may become terminally ill within six months, and
 - (b) the conditions in paragraph 12(1)(b) to (d) are met.

Terminal illness lump sum: effect of successful application

- 15 (1) If the Board grants an application for a terminal illness lump sum, the transferee—
- (a) becomes entitled to a terminal illness lump sum calculated in accordance with this paragraph, and

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- (b) loses the entitlement he or she otherwise would have had on attaining the relevant age to compensation under paragraph 6 in respect of the pension compensation credit.
- (2) The amount of the terminal illness lump sum is 2 times the amount to which the transferee would have been entitled under paragraph 6 in respect of the pension compensation credit in the year following the granting of the application, if he or she had attained the relevant age on the granting of the application.
- (3) In this paragraph “the relevant age” has the same meaning as in paragraph 12.

Terminal illness lump sum: information

- 16
- (1) Relevant information held by the Secretary of State about an individual may be disclosed to the Board for use for a purpose relating to its functions under paragraphs 12 to 15.
 - (2) In sub-paragraph (1), “relevant information” means information held for the purposes of any function of the Secretary of State relating to—
 - (a) social security, or
 - (b) any scheme made under section 286 of the Pensions Act 2004 (c. 35) (financial assistance scheme).

PART 4

PROVISIONS APPLICABLE IRRESPECTIVE OF AGE OF TRANSFEREE ON TRANSFER DAY

Annual increase in periodic compensation

- 17
- (1) This paragraph provides for annual increases to compensation payable to the transferee.
 - (2) The transferee is entitled, on each indexation date, to an increase of the appropriate percentage of the underlying rate.
 - (3) The increase to which the transferee is entitled on the first indexation date is restricted to 1/12 of the amount calculated under sub-paragraph (2) for each full month in the period beginning with the transfer day and ending with that indexation date.
 - (4) For the purposes of sub-paragraph (2)—
 - “the appropriate percentage”, as at an indexation date, is the lesser of—
 - (a) the percentage increase in the retail prices index for the period of 12 months ending with the 31 May last falling before that date, and
 - (b) 2.5%;
 - “the indexation date” means—
 - (a) the 1 January next falling after the transferee first becomes entitled to the periodic compensation, and
 - (b) each subsequent 1 January during the transferee’s lifetime;
 - “the underlying rate”, as at an indexation date, is the aggregate of—
 - (a) the indexed proportion (as determined under sub-paragraph (5) or (6) below) of the aggregate of the initial annual rate of compensation

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and (in the case of compensation payable under paragraph 6) the revaluation amount, and

(b) any annual increase to which the transferee is entitled under this paragraph in respect of earlier indexation dates.

- (5) Where the transferor’s PPF compensation is payable in accordance with paragraph 3, 5, 8, 11, 15 or 22 of Schedule 7 to the Pensions Act 2004 (“the relevant paragraph of Schedule 7”), “the indexed proportion” is the proportion of the amount mentioned in sub-paragraph (3)(a) of the relevant paragraph of Schedule 7 that is attributable to the transferor’s post-1997 service.

Paragraph 28(4) of that Schedule applies for the purpose of attributing amounts to the transferor’s post-1997 service under this sub-paragraph.

- (6) Where the transferor’s PPF compensation is payable otherwise than as mentioned in sub-paragraph (5), “the indexed proportion” is such proportion as is determined in accordance with regulations made by the Secretary of State.
- (7) Where the compensation payable to the transferee is—
- (a) reduced as a result of the commutation of periodic compensation under paragraph 9, or
 - (b) restricted under regulations under paragraph 18 (compensation cap),
- the references in the definition of “the underlying rate” in sub-paragraph (4) above to the initial annual compensation rate and the revaluation amount are to that rate and that amount as so restricted or reduced.
- (8) The definition of “the appropriate percentage” in sub-paragraph (4) is subject to paragraph 20 (power of Board to alter rates of revaluation and indexation).
- (9) In this paragraph—
- “post-1997 service” has the same meaning as in paragraph 28 of Schedule 7 to the Pensions Act 2004 (c. 35) (annual increase in periodic pension compensation);
- “the commutation percentage”, in relation to periodic compensation, means the percentage of that compensation commuted under paragraph 9.

Compensation cap

- 18 (1) The Secretary of State may by regulations make provision for restricting the amount of periodic compensation payable under this Schedule in a case in which, on the transfer day, the transferor is not entitled to present payment of PPF compensation.
- (2) Without prejudice to the generality of sub-paragraph (1), the regulations may restrict an amount payable to a person in any period by reference to the compensation cap specified by the Secretary of State by order under paragraph 26(7) of Schedule 7 to the Pensions Act 2004 (compensation cap).

Compensation in form of dependant’s benefits

- 19 (1) The Secretary of State may by regulations make provision for compensation to be payable to—
- (a) prescribed descriptions of partners, or
 - (b) prescribed descriptions of dependants,

of prescribed descriptions of transferees.

- (2) The regulations may, in particular—
- (a) provide for compensation in the form of periodic or lump sum payments;
 - (b) provide for periodic compensation to be payable for a prescribed period;
 - (c) apply paragraph 17 (annual increases in respect of periodic compensation), with or without modifications, in respect of compensation in the form of periodic payments.

Board's power to alter rates of revaluation and indexation

- 20 (1) The Board may determine the percentage that is to be—
- (a) the maximum revaluation rate for the purposes of paragraph 8(4)(b);
 - (b) the appropriate percentage for the purposes of paragraph 17(2).
- (2) Before making a determination under this paragraph the Board must—
- (a) consult such persons as it considers appropriate, and
 - (b) publish details of the proposed determination in such manner as it considers appropriate and consider any representations made in respect of it.
- (3) The rate determined under this paragraph may be nil.
- (4) A determination under this paragraph may be expressed so as to have effect for a limited period.
- (5) A determination under sub-paragraph (1)(b)—
- (a) has effect in relation to future increases under paragraph 17 only, and
 - (b) may be expressed to have effect—
 - (i) in all cases (whether the entitlement to the periodic compensation first arose before or after the date the determination is made), or
 - (ii) only in cases where entitlement to the periodic compensation first arose on or after a date determined by the Board.
- (6) Notice of any determination under this paragraph must be published in such manner as the Board considers appropriate.

SCHEDULE 6

Section 120

PENSION COMPENSATION ON DIVORCE ETC: ENGLAND AND WALES

PART 1

AMENDMENTS OF THE MATRIMONIAL CAUSES ACT 1973

- 1 The Matrimonial Causes Act 1973 (c. 18) is amended as follows.
- 2 After section 21A (pension sharing orders) insert—

Status: This is the original version (as it was originally enacted).

“21B Pension compensation sharing orders

- (1) For the purposes of this Act, a pension compensation sharing order is an order which—
- (a) provides that one party’s shareable rights to PPF compensation that derive from rights under a specified pension scheme are to be subject to pension compensation sharing for the benefit of the other party, and
 - (b) specifies the percentage value to be transferred.
- (2) In subsection (1)—
- (a) the reference to shareable rights to PPF compensation is to rights in relation to which pension compensation sharing is available under Chapter 1 of Part 3 of the Pensions Act 2008 or under corresponding Northern Ireland legislation;
 - (b) “party” means a party to a marriage;
 - (c) “specified” means specified in the order.

21C Pension compensation: interpretation

In this Part—

“PPF compensation” means compensation payable under the pension compensation provisions;

“the pension compensation provisions” means—

- (a) Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) and any regulations or order made under it,
- (b) Chapter 1 of Part 3 of the Pensions Act 2008 (pension compensation on divorce etc) and any regulations or order made under it, and
- (c) any provision corresponding to the provisions mentioned in paragraph (a) or (b) in force in Northern Ireland.”

3 After section 24D (pension sharing orders: apportionment of charges) insert—

“24E Pension compensation sharing orders in connection with divorce proceedings

- (1) On granting a decree of divorce or a decree of nullity of marriage or at any time thereafter (whether before or after the decree is made absolute), the court may, on an application made under this section, make a pension compensation sharing order in relation to the marriage.
- (2) A pension compensation sharing order under this section is not to take effect unless the decree on or after which it is made has been made absolute.
- (3) A pension compensation sharing order under this section may not be made in relation to rights to PPF compensation that—
 - (a) are the subject of pension attachment,
 - (b) derive from rights under a pension scheme that were the subject of pension sharing between the parties to the marriage,
 - (c) are the subject of pension compensation attachment, or

Status: This is the original version (as it was originally enacted).

- (d) are or have been the subject of pension compensation sharing between the parties to the marriage.
- (4) For the purposes of subsection (3)(a), rights to PPF compensation “are the subject of pension attachment” if any of the following three conditions is met.
- (5) The first condition is that—
 - (a) the rights derive from rights under a pension scheme in relation to which an order was made under section 23 imposing a requirement by virtue of section 25B(4), and
 - (b) that order, as modified under section 25E(3), remains in force.
- (6) The second condition is that—
 - (a) the rights derive from rights under a pension scheme in relation to which an order was made under section 23 imposing a requirement by virtue of section 25B(7), and
 - (b) that order—
 - (i) has been complied with, or
 - (ii) has not been complied with and, as modified under section 25E(5), remains in force.
- (7) The third condition is that—
 - (a) the rights derive from rights under a pension scheme in relation to which an order was made under section 23 imposing a requirement by virtue of section 25C, and
 - (b) that order remains in force.
- (8) For the purposes of subsection (3)(b), rights under a pension scheme “were the subject of pension sharing between the parties to the marriage” if the rights were at any time the subject of a pension sharing order in relation to the marriage or a previous marriage between the same parties.
- (9) For the purposes of subsection (3)(c), rights to PPF compensation “are the subject of pension compensation attachment” if there is in force a requirement imposed by virtue of section 25F relating to them.
- (10) For the purposes of subsection (3)(d), rights to PPF compensation “are or have been the subject of pension compensation sharing between the parties to the marriage” if they are or have ever been the subject of a pension compensation sharing order in relation to the marriage or a previous marriage between the same parties.

24F Pension compensation sharing orders: duty to stay

- (1) No pension compensation sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.
- (2) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: This is the original version (as it was originally enacted).

24G Pension compensation sharing orders: apportionment of charges

The court may include in a pension compensation sharing order provision about the apportionment between the parties of any charge under section 117 of the Pensions Act 2008 (charges in respect of pension compensation sharing costs), or under corresponding Northern Ireland legislation.”

- 4 (1) Section 25 (matters to which court is to have regard) is amended as follows.
- (2) In the heading, for “and 24A” substitute “, 24A, 24B and 24E”.
- (3) In subsections (1) and (2), for “or 24B” substitute “, 24B or 24E”.
- 5 In section 25A(1) (exercise of court’s powers in favour of party to marriage on decree of divorce or nullity of marriage), for “or 24B” substitute “, 24B or 24E”.
- 6 In section 25E(9) (the Pension Protection Fund), omit the definition of “PPF compensation”.
- 7 After section 25E insert—

“25F Attachment of pension compensation

- (1) This section applies where, having regard to any PPF compensation to which a party to the marriage is or is likely to be entitled, the court determines to make an order under section 23.
- (2) To the extent to which the order is made having regard to such compensation, the order may require the Board of the Pension Protection Fund, if at any time any payment in respect of PPF compensation becomes due to the party with compensation rights, to make a payment for the benefit of the other party.
- (3) The order must express the amount of any payment required to be made by virtue of subsection (2) as a percentage of the payment which becomes due to the party with compensation rights.
- (4) Any such payment by the Board of the Pension Protection Fund—
- (a) shall discharge so much of its liability to the party with compensation rights as corresponds to the amount of the payment, and
 - (b) shall be treated for all purposes as a payment made by the party with compensation rights in or towards the discharge of that party’s liability under the order.
- (5) Where the party with compensation rights has a right to commute any PPF compensation, the order may require that party to exercise it to any extent; and this section applies to any payment due in consequence of commutation in pursuance of the order as it applies to other payments in respect of PPF compensation.
- (6) The power conferred by subsection (5) may not be exercised for the purpose of commuting compensation payable to the party with compensation rights to compensation payable to the other party.
- (7) The power conferred by subsection (2) or (5) may not be exercised in relation to rights to PPF compensation that—

Status: This is the original version (as it was originally enacted).

- (a) derive from rights under a pension scheme that were at any time the subject of a pension sharing order in relation to the marriage, or a previous marriage between the same parties, or
- (b) are or have ever been the subject of a pension compensation sharing order in relation to the marriage or a previous marriage between the same parties.

25G Pension compensation: supplementary

- (1) The Lord Chancellor may by regulations—
 - (a) make provision, in relation to any provision of section 25F which authorises the court making an order under section 23 to require the Board of the Pension Protection Fund to make a payment for the benefit of the other party, as to the person to whom, and the terms on which, the payment is to be made;
 - (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of section 25F in an order under section 23, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
 - (c) require notices to be given in respect of changes of circumstances relevant to orders under section 23 which include provision made by virtue of section 25F;
 - (d) make provision for the Board of the Pension Protection Fund to be discharged in prescribed circumstances from a requirement imposed by virtue of section 25F;
 - (e) make provision about calculation and verification in relation to the valuation of PPF compensation for the purposes of the court's functions in connection with the exercise of any of its powers under this Part.
- (2) Regulations under subsection (1)(e) may include—
 - (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person;
 - (b) provision by reference to regulations under section 112 of the Pensions Act 2008.
- (3) Regulations under subsection (1) may make different provision for different cases.
- (4) The power to make regulations under subsection (1) is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section and section 25F—
 - “the party with compensation rights” means the party to the marriage who is or is likely to be entitled to PPF compensation, and
 - “the other party” means the other party to the marriage;
 - “prescribed” means prescribed by regulations.”

8 (1) Section 31 (variation, discharge etc of certain orders for financial relief) is amended as follows.

- (2) In subsection (2)(dd)—

Status: This is the original version (as it was originally enacted).

- (a) omit “or” at the end of sub-paragraph (i);
 - (b) at the end of sub-paragraph (ii) add “or”;
 - (c) after that sub-paragraph insert—
 - “(iii) section 25F(2),”;
 - (d) in the closing words, after “pension rights” insert “or pension compensation rights”.
- (3) In subsection (2)(g), after “a pension sharing order under section 24B above” insert “, or a pension compensation sharing order under section 24E above,”.
- (4) In subsection (4B), after “pension sharing order” insert “, or a pension compensation sharing order,”.
- (5) In subsection (4C), after “pension sharing order” insert “, or a pension compensation sharing order,”.
- (6) In subsection (5), after “pension sharing order” insert “or pension compensation sharing order”.
- (7) In subsection (7B), after paragraph (ba) insert
 “(bb) a pension compensation sharing order;”.
- (8) After subsection (7G) insert—
- “(7H) Subsections (3) to (10) of section 24E above apply in relation to a pension compensation sharing order under subsection (7B) above as they apply in relation to a pension compensation sharing order under that section.”
- 9 After section 40A (appeals relating to pension sharing orders which have taken effect) insert—

“40B Appeals relating to pension compensation sharing orders which have taken effect

- (1) This section applies where an appeal against a pension compensation sharing order is begun on or after the day on which the order takes effect.
- (2) If the Board of the Pension Protection Fund has acted to its detriment in reliance on the taking effect of the order the appeal court—
 - (a) may not set aside or vary the order;
 - (b) may make such further orders (including a pension compensation sharing order) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (3) In determining for the purposes of subsection (2) whether the Board has acted to its detriment the appeal court may disregard any detriment which in the court’s opinion is insignificant.
- (4) Section 24F (duty to stay) only applies to a pension compensation sharing order under this section if the decision of the appeal court can itself be the subject of an appeal.”

PART 2

AMENDMENTS OF THE MATRIMONIAL AND FAMILY PROCEEDINGS ACT 1984

- 10 The Matrimonial and Family Proceedings Act 1984 (c. 42) is amended as follows.
- 11 In section 17 (orders for financial provision and property adjustment), at the end of subsection (1) add—
- “(c) if the marriage has been dissolved or annulled, make an order which would, within the meaning of that Part of that Act, be a pension compensation sharing order in relation to the marriage.”
- 12 In section 18(7) (matters to which court to have regard), for paragraph (c) substitute—
- “(c) “PPF compensation” means compensation payable under—
- (i) Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any regulations or order made under it,
- (ii) Chapter 1 of Part 3 of the Pensions Act 2008 (pension compensation sharing) or any regulations or order made under it, or
- (iii) any provision corresponding to the provisions mentioned in sub-paragraph (i) or (ii) in force in Northern Ireland.”
- 13 (1) Section 21 (application of certain provisions of Part 2 of the Matrimonial Causes Act 1973) is amended as follows.
- (2) After subsection (1)(bc) insert—
- “(bca) section 24E(3) to (10) (provisions about pension compensation orders in relation to divorce and nullity);
- “(bcb) section 24F (duty to stay pension compensation sharing orders);
- “(bcc) section 24G (apportionment of pension compensation sharing charges);”.
- (3) After subsection (1)(bf) insert—
- “(bg) section 25F (power, by financial provision order, to attach pension compensation payments, or to require the exercise of a right of commutation of pension compensation);”.
- (4) After subsection (1)(l) add—
- “(m) section 40B (appeals relating to pension compensation sharing orders which have taken effect).”
- (5) In subsection (2), for “and (be)” substitute “, (be) and (bg)”.
- (6) In subsection (4), at the end add “or under subsections (1) to (3) of section 25G of that Act”.

PART 3

AMENDMENTS OF THE CIVIL PARTNERSHIP ACT 2004

- 14 The Civil Partnership Act 2004 (c. 33) is amended as follows.
- 15 After Part 4 of Schedule 5 (pension sharing orders on or after dissolution or nullity order) insert—

Status: This is the original version (as it was originally enacted).

“PART 4A

PENSION COMPENSATION SHARING ORDERS ON OR AFTER DISSOLUTION OR NULLITY ORDER

Circumstances in which pension compensation sharing orders may be made

- 19A (1) The court may make a pension compensation sharing order—
- (a) on making a dissolution or nullity order, or
 - (b) at any time afterwards.
- (2) In this Schedule “pension compensation sharing order” means a pension compensation sharing order under this Part.

Pension compensation sharing orders

- 19B (1) A pension compensation sharing order is an order which—
- (a) provides that one civil partner’s shareable rights to PPF compensation that derive from rights under a specified pension scheme are to be subject to pension compensation sharing for the benefit of the other civil partner, and
 - (b) specifies the percentage value to be transferred.
- (2) Shareable rights to PPF compensation are rights in relation to which pension compensation sharing is available under—
- (a) Chapter 1 of Part 3 of the Pensions Act 2008, or
 - (b) corresponding Northern Ireland legislation.
- (3) In sub-paragraph (1) “specified” means specified in the order.

Pension compensation sharing orders: apportionment of charges

- 19C The court may include in a pension compensation sharing order provision about the apportionment between the civil partners of any charge under—
- (a) section 117 of the Pensions Act 2008 (charges in respect of pension compensation sharing costs), or
 - (b) corresponding Northern Ireland legislation.

Restrictions on making pension compensation sharing orders

- 19D (1) A pension compensation sharing order may not be made in relation to rights to PPF compensation that—
- (a) are the subject of pension attachment,
 - (b) derive from rights under a pension scheme that were the subject of pension sharing between the civil partners,
 - (c) are the subject of pension compensation attachment, or
 - (d) are or have been the subject of pension compensation sharing between the civil partners.

Status: This is the original version (as it was originally enacted).

- (2) For the purposes of sub-paragraph (1)(a), rights to PPF compensation “are the subject of pension attachment” if any of the following three conditions is met.
- (3) The first condition is that—
 - (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 25(2), and
 - (b) that order, as modified under paragraph 31, remains in force.
- (4) The second condition is that—
 - (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 25(5), and
 - (b) that order—
 - (i) has been complied with, or
 - (ii) has not been complied with and, as modified under paragraph 32, remains in force.
- (5) The third condition is that—
 - (a) the rights derive from rights under a pension scheme in relation to which an order was made under Part 1 imposing a requirement by virtue of paragraph 26, and
 - (b) that order remains in force.
- (6) For the purposes of sub-paragraph (1)(b), rights under a pension scheme “were the subject of pension sharing between the civil partners” if the rights were at any time the subject of a pension sharing order in relation to the civil partnership or a previous civil partnership between the same parties.
- (7) For the purposes of sub-paragraph (1)(c), rights to PPF compensation “are the subject of pension compensation attachment” if there is in force a requirement imposed by virtue of Part 6 relating to them.
- (8) For the purposes of sub-paragraph (1)(d), rights to PPF compensation “are or have been the subject of pension compensation sharing between the civil partners” if they are or have ever been the subject of a pension compensation sharing order in relation to the civil partnership or a previous civil partnership between the same parties.

When pension compensation sharing orders may take effect

- 19E
- (1) A pension compensation sharing order is not to take effect unless the dissolution or nullity order on or after which it is made has been made final.
 - (2) No pension compensation sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.

Status: This is the original version (as it was originally enacted).

- (3) The power to make regulations under sub-paragraph (2) is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

19F In this Schedule—

“PPF compensation” means compensation payable under the pension compensation provisions;

“the pension compensation provisions” means—

- (a) Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) and any regulations or order made under it,
- (b) Chapter 1 of Part 3 of the Pensions Act 2008 (pension compensation sharing) and any regulations or order made under it, and
- (c) any provision corresponding to the provisions mentioned in paragraph (a) or (b) in force in Northern Ireland.”

- 16 (1) Part 5 of Schedule 5 (matters to which court is to have regard under Parts 1 to 4) is amended as follows.

(2) In the heading of the Part for “4” substitute “4A”.

(3) In paragraph 20—

- (a) omit “or” at the end of paragraph (a)(iii);
- (b) for “and” at the end of paragraph (a)(iv) substitute “or”;
- (c) after that provision insert—

“(v) any provision of Part 4A (pension compensation sharing orders) other than paragraph 19C (apportionment of charges), and”.

(4) In paragraph 21(1)—

- (a) omit “or” at the end of paragraph (c);
 - (b) at the end of paragraph (d) insert “, or”;
 - (c) after that paragraph insert—
- “(e) Part 4A (pension compensation sharing orders).”

(5) In paragraph 23(1)—

- (a) omit “or” at the end of paragraph (c);
 - (b) at the end of paragraph (d) insert “or”;
 - (c) after that paragraph insert—
- “(e) Part 4A (pension compensation sharing orders).”

- 17 (1) Part 7 of Schedule 5 (pension protection fund compensation etc) is amended as follows.

(2) Omit paragraph 30(3) (definition of PPF compensation).

(3) After paragraph 34 insert—

Status: This is the original version (as it was originally enacted).

“Attachment of PPF compensation

- 34A (1) This paragraph applies if, having regard to any PPF compensation to which a civil partner is or is likely to be entitled, the court decides to make an order under Part 1.
- (2) To the extent to which the Part 1 order is made having regard to such compensation, it may require the Board, if at any time any payment in respect of PPF compensation becomes due to the civil partner with compensation rights, to make a payment for the benefit of the other civil partner.
- (3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with compensation rights.
- (4) Any such payment by the Board—
- (a) discharges so much of its liability to the civil partner with compensation rights as corresponds to the amount of the payment, and
 - (b) is to be treated for all purposes as a payment made by the civil partner with compensation rights in or towards the discharge of that civil partner’s liability under the order.
- (5) If the civil partner with compensation rights has a right to commute any PPF compensation, the Part 1 order may require that civil partner to exercise it to any extent.
- (6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of PPF compensation.
- (7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with compensation rights to a benefit payable to the other civil partner.
- (8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to rights to PPF compensation that—
- (a) derive from rights under a pension scheme that were at any time the subject of a pension sharing order in relation to the civil partnership or a previous civil partnership between the same parties, or
 - (b) are or have ever been the subject of a pension compensation sharing order in relation to the civil partnership or a previous civil partnership between the same parties.”

(4) Before paragraph 35 insert—

- “34B (1) Regulations may—
- (a) make provision, in relation to any provision of paragraph 34A which authorises the court making a Part 1 order to require the Board to make a payment for the benefit of the other civil partner, as to the person to whom, and the terms on which, the payment is to be made;

Status: This is the original version (as it was originally enacted).

- (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 34A in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
 - (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraph 34A;
 - (d) make provision for the Board to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 34A;
 - (e) make provision about calculation and verification in relation to the valuation of PPF compensation for the purposes of the court's functions in connection with the exercise of any of its powers under this Schedule.
- (2) Regulations under sub-paragraph (1)(e) may include—
- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person;
 - (b) provision by reference to regulations under section 112 of the Pensions Act 2008.”
- (5) In paragraph 37(1) of that Schedule—
- (a) after the definition of “the Board” insert—
 - ““the civil partner with compensation rights” means the civil partner who is or is likely to be entitled to PPF compensation;”;
 - (b) after the definition of “occupational pension scheme” insert—
 - “prescribed” means prescribed by regulations;”.
- 18 (1) Part 11 of Schedule 5 (variation, discharge etc of certain orders for financial relief) is amended as follows.
- (2) In paragraph 50(1)(f)—
- (a) omit “or” at the end of sub-paragraph (i);
 - (b) at the end of sub-paragraph (ii) insert “or”;
 - (c) after that sub-paragraph insert—
 - “(iii) paragraph 34A(2),”;
 - (d) in the closing words after “pension rights” insert “or pension compensation rights”.
- (3) In paragraph 50(1)(i) after “a pension sharing order” insert “, or a pension compensation sharing order,”.
- (4) After paragraph 53(2)(c) insert—
- “(ca) a pension compensation sharing order;”.
- (5) After paragraph 54(5) insert—
- “(6) Paragraph 19D (restrictions on making pension compensation sharing orders) applies in relation to a pension compensation sharing order under paragraph 53 as it applies in relation to any other pension compensation sharing order.”

Status: This is the original version (as it was originally enacted).

- (6) In the italic heading before paragraph 56 for “and pension sharing orders” substitute “, pension sharing and pension compensation sharing orders”.
- (7) In the following provisions of paragraph 57, after “pension sharing order” insert “or pension compensation sharing order”—
- (a) the opening words of sub-paragraph (1);
 - (b) sub-paragraph (1)(a)(i);
 - (c) sub-paragraph (1)(b);
 - (d) sub-paragraph (2);
 - (e) sub-paragraph (3).
- (8) In paragraph 58(2) for “or pension sharing order” substitute “, pension sharing order or pension compensation sharing order”.
- 19 In Part 14 of Schedule 5 (miscellaneous and supplementary) after paragraph 79 insert—
- “Appeals relating to pension compensation sharing orders which have taken effect*
- 79A (1) This paragraph applies where an appeal against a pension compensation sharing order is begun on or after the day on which the order takes effect.
- (2) If the Board of the Pension Protection Fund has acted to its detriment in reliance on the taking effect of the order the appeal court—
- (a) may not set aside or vary the order;
 - (b) may make such further orders (including a pension compensation sharing order) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (3) In determining for the purposes of sub-paragraph (2) whether the Board has acted to its detriment the appeal court may disregard any detriment which in the court’s opinion is insignificant.
- (4) Paragraph 19E only applies to a pension compensation sharing order under this paragraph if the decision of the appeal court can itself be the subject of an appeal.”
- 20 (1) In Schedule 7 (financial relief in England and Wales after overseas dissolution etc of a civil partnership), in the italic heading before paragraph 9, for “and pension sharing” substitute “, pension sharing and pension compensation sharing”.
- (2) In paragraph 9(2) of that Schedule—
- (a) for “or 4” substitute “, 4 or 4A”;
 - (b) for “and pension sharing” substitute “, pension sharing and pension compensation sharing”.
- (3) In paragraph 10(9)(c) of that Schedule omit “Part 7 of”.
- (4) In paragraph 14 of that Schedule—
- (a) after sub-paragraph (1)(c) insert—
“(ca) paragraphs 19C, 19D and 19E(2) and (3) (pension compensation sharing);”;
 - (b) in sub-paragraph (1)(e) for “37” substitute “34 and 35 to 37”;
 - (c) after that provision insert—

Status: This is the original version (as it was originally enacted).

- “(ea) paragraph 34A (orders under Part 1 relating to pension compensation attachment);”;
- (d) in sub-paragraph (1)(i) for “79” substitute “79A”;
- (e) in that provision for “and pension-sharing appeals” substitute “, pension-sharing appeals and pension compensation-sharing appeals”;
- (f) in sub-paragraph (2) after “Sub-paragraph (1)(d)” insert “and (ea)”;
- (g) in sub-paragraph (4) at the end add “or under paragraphs 34B to 36 of that Schedule (supplementary provision about orders relating to pension compensation)”.

SCHEDULE 7

Section 120

PENSION COMPENSATION ON DIVORCE ETC: SCOTLAND

- 1 The Family Law (Scotland) Act 1985 (c. 37) is amended as follows.
- 2 In section 8 (orders for financial provision)—
- (a) in subsection (1)—
 - (i) after paragraph (baa) insert—
 - “(bab) a pension compensation sharing order;”;
 - (ii) after paragraph (ba) insert—
 - “(bb) an order under section 12B(2);”;
 - (b) subsection (4A) is repealed,
 - (c) after subsection (7) add—
 - “(8) The court shall not, in the same proceedings, make both a pension compensation sharing order and an order under section 12B(2) in relation to the same PPF compensation.
 - (9) The court shall not make a pension compensation sharing order in relation to rights to PPF compensation that—
 - (a) derive from rights under a pension scheme which is subject to an order made under section 12A(2) or (3) in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons,
 - (b) derive from rights under a pension scheme which were at any time the subject of a pension sharing order in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons,
 - (c) are or have been the subject of a pension compensation sharing order in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons, or
 - (d) are the subject of an order made under section 12B(2) in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons.
 - (10) Where, as regards PPF compensation, the parties to a marriage or the partners in a civil partnership have in effect a qualifying

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agreement which contains a term relating to pension compensation sharing, the court shall not—

- (a) make an order under section 12B(2); or
- (b) make a pension compensation sharing order,

relating to the compensation unless it also sets aside the agreement or term under section 16(1)(b) of this Act.

(11) For the purposes of subsection (10)—

- (a) the expression “term relating to pension compensation sharing” is to be construed by reference to section 16(2AA) of this Act; and
- (b) a qualifying agreement is one to which section 110(1) of the Pensions Act 2008 relates.”

3 After section 8A insert—

“8B Pension compensation sharing orders: apportionment of charges

The court may include in a pension compensation sharing order provision about apportionment between the parties of any charge under section 117 of the Pensions Act 2008 or under corresponding Northern Ireland legislation.”

4 In section 10 (sharing of value of matrimonial property or partnership property)—

- (a) in subsection (5A), for the words from “compensation payable” to “that Chapter” substitute “PPF compensation”,
- (b) for subsection (8B) substitute—

“(8B) The Scottish Ministers may by regulations make provision for the purposes of this Act about—

- (a) calculation and verification of PPF compensation,
- (b) apportionment of PPF compensation.

(8C) Regulations under subsection (8B) may include provision—

- (a) for calculation or verification in a manner approved by a prescribed person,
- (b) by reference to regulations under section 112 of the Pensions Act 2008.”

5 In section 12A (orders for payment of capital sum: pensions lump sums), in subsection (7ZC), for the words “Notwithstanding the provisions of section 8(4A), for” substitute “For”.

6 After section 12A insert—

“12B Order for payment of capital sum: pension compensation

(1) This section applies where the court makes an order under section 8(2) for payment of a capital sum (a “capital sum order”) by a party to a marriage or a partner in a civil partnership (“the liable person”) in circumstances where the matrimonial or (as the case may be) partnership property within the meaning of section 10 includes any rights to PPF compensation.

(2) On making the capital sum order, the court may make an additional order requiring the Board of the Pension Protection Fund, if at any time any

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payment in respect of PPF compensation becomes due to the liable person, to pay the whole or part of that payment to the other party or (as the case may be) other partner (“the other person”).

- (3) Any such payment by the Board of the Pension Protection Fund—
- (a) shall discharge so much of its liability to the liable person as corresponds to the amount of the payment, and
 - (b) shall be treated for all purposes as a payment made by the liable person in or towards the discharge of the person’s liability under the capital sum order.
- (4) Where the liability of the liable person under the capital sum order has been discharged in whole or in part, other than by a payment by the Board of the Pension Protection Fund, the court may, on an application by any person having an interest, recall the order or vary the amount specified in such an order as appears to the court appropriate in the circumstances.
- (5) The court may not make an additional order under subsection (2) in relation to rights to PPF compensation that—
- (a) derive from rights under a pension scheme which is subject to an order made under section 12A(2) or (3) in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons,
 - (b) derive from rights under a pension scheme which were at any time the subject of a pension sharing order in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons,
 - (c) are or have been the subject of a pension compensation sharing order in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons, or
 - (d) are the subject of an order made under subsection (2) in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons.”

7 In section 13 (order for periodical allowance), in subsection (2)(b), after the words “pension sharing order” insert “or pension compensation sharing order”.

8 In section 16 (agreements on financial provision)—

- (a) in subsection (2)(b), for the words “does not contain a term relating to pension sharing” substitute “contains neither a term relating to pension sharing nor a term relating to pension compensation sharing”,
- (b) in subsection (2)(c), after the word “sharing” in the first place where it occurs insert “or pension compensation sharing”,
- (c) in subsection (2)(c)(i), after the word “sharing” insert “or (as the case may be) the term relating to pension compensation sharing”,
- (d) after subsection (2A), insert—

“(2AA) For the purpose of subsection (2), a term relating to pension compensation sharing is a term corresponding to provision which may be made in a pension compensation sharing order and satisfying the requirements set out in section 109(g) of the Pensions Act 2008.”

9 In section 27 (interpretation)—

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- (a) in subsection (1), before the definition of “pension sharing order” insert—
- ““pension compensation sharing order” is an order which—
- (a) provides that one party’s shareable rights to PPF compensation that derive from rights under a specified compensation scheme (that is, specified in the order) are to be subject to pension compensation sharing for the benefit of the other party, and
- (b) specifies the percentage value or amount to be transferred;”
- (b) after subsection (1A) insert—
- “(1B) In subsection (1), in the definition of “pension compensation sharing order”, the reference to shareable rights to PPF compensation is to rights in relation to which pension compensation sharing is available under Chapter 1 of Part 3 of the Pensions Act 2008 or under corresponding Northern Ireland legislation.
- (1C) In this Act—
- “PPF compensation” means compensation payable under the pension compensation provisions,
- “the pension compensation provisions” means—
- (a) Chapter 3 of Part 2 of the Pensions Act 2004 and any regulations or order made under it,
- (b) Chapter 1 of Part 3 of the Pensions Act 2008 and any regulations or order made under it,
- (c) any provision corresponding to the provisions mentioned in paragraph (a) or (b) in force in Northern Ireland.”

SCHEDULE 8

Section 122

AMENDMENTS OF SCHEDULE 7 TO THE PENSIONS ACT 2004

- 1 Schedule 7 to the Pensions Act 2004 (c. 35) (pension compensation provisions) is amended as follows.
- 2 In paragraph 3(6), at the end, add “to the scheme”.
- 3 In paragraph 5(5), at the end, add “to the scheme”.
- 4 In paragraph 11(8), after “paragraph 24 (commutation),” insert—
- “paragraph 25E (terminal illness lump sum),”.
- 5 In paragraph 13, after sub-paragraph (3) insert—
- “(3A) For the purposes of this paragraph, a person’s entitlement under paragraph 11 is to be determined disregarding paragraph 25E(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).”

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- 6 In paragraph 14(9), after “paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund),” insert—
“paragraph 25E (terminal illness lump sum),”.
- 7 In paragraph 15(6), after “paragraph 24 (commutation),” insert—
“paragraph 25E (terminal illness lump sum),”.
- 8 In paragraph 18, after sub-paragraph (3) insert—
“(3A) For the purposes of this paragraph, a person’s entitlement under paragraph 15 is to be determined disregarding paragraph 25E(1)(b) (successful applicant for terminal illness lump sum loses entitlement to periodic compensation).”
- 9 In paragraph 19(8), after “This paragraph is subject to—” insert—
“paragraph 25E (terminal illness lump sum),”.
- 10 In paragraph 21(1), for “15, 18 and 19” substitute “15 to 19”.
- 11 For paragraph 21(2)(b) and (c) substitute—
“(c) for paragraph 15(5) substitute—
“(5) Subject to sub-paragraph (5A), for the purposes of this paragraph and paragraphs 16 and 17, “the accrued amount” means the amount equal to the initial annual rate of the pension which, under the admissible rules, the deferred member is entitled to receive at normal benefit age by virtue of his pension credit rights.

(5A) For the purposes of calculating the amounts mentioned in sub-paragraph (4)(b) and (c), the accrued amount is to be treated as reduced by such amount as is not attributable to rights of the deferred member that involve the member being credited by the scheme with notional pensionable service.”,
(ca) in paragraph 16(2)(a) before “pensionable service” insert “notional”,
(cb) in paragraph 17(2)(b) the reference to normal pension age is to be read as a reference to normal benefit age,
(cc) in paragraph 17(6) omit “, “the accrued amount””.”
- 12 In paragraph 25(3), after “before that person attains normal pension age” insert “(or, in a case to which paragraph 21 applies, normal benefit age)”.
- 13 After paragraph 25 insert—

“Deferral of compensation

- 25A (1) Regulations may prescribe circumstances in which, and conditions subject to which, a person may elect to defer entitlement to any relevant compensation until some time after attaining normal pension age (or, in a case to which paragraph 21 applies, normal benefit age).
- (2) For this purpose “any relevant compensation” means any compensation to which a person is or will be entitled under the pension compensation

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provisions, except for compensation payable in accordance with paragraph 3 (pensions in payment at assessment date).

- (3) The Board must determine the amount of the actuarial increase to be applied to compensation to which a person is entitled by virtue of this paragraph.
- (4) Where, by virtue of this paragraph, periodic compensation is payable to a person under paragraph 11 or 15 after that person attains normal pension age (or, in a case to which paragraph 21 applies, normal benefit age)—
 - (a) paragraph 12(2) applies as if the reference to the date on which the active member attains normal pension age were a reference to the date on which the compensation is payable by virtue of this paragraph, and
 - (b) paragraph 17(2)(b) applies as if the reference to the date on which the deferred member attains normal pension age were a reference to the date on which the compensation is payable by virtue of this paragraph.”

14 After paragraph 25A (inserted by paragraph 13 above) insert—

“Terminal illness lump sum: eligibility

- 25B (1) This paragraph applies to a person in relation to whom all of the following conditions are met—
- (a) the person is terminally ill;
 - (b) if the person lived to the relevant age, the person would become entitled on attaining that age to relevant compensation in relation to the scheme;
 - (c) the person has not yet become entitled to any compensation under the pension compensation provisions in relation to the scheme;
 - (d) the whole or any part of the person’s lifetime allowance is available.
- (2) A person to whom this paragraph applies may make an application to the Board to commute the future entitlement mentioned in sub-paragraph (1) (b) for a lump sum (“a terminal illness lump sum”) payable on the granting of the application.
- (3) For the purposes of this Chapter a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person’s death in consequence of that disease can reasonably be expected within 6 months.
- (4) In this paragraph—
- “lifetime allowance”, in relation to a person, has the same meaning as in Part 4 of the Finance Act 2004 (c. 12) (pension schemes etc) (see section 218 of that Act);
- “relevant age”, in relation to a person, means—
- (a) in relation to compensation entitlement to which has been accelerated or deferred under regulations under paragraph 25 or (as the case may be) 25A, the age at which the person

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- becomes entitled to the compensation in accordance with the regulations;
- (b) in relation to compensation entitlement to which has not been so accelerated or deferred, normal pension age (or, in a case to which paragraph 21 applies, normal benefit age);
- “relevant compensation” means—
- (a) periodic compensation under paragraph 11 or 15, or
- (b) lump sum compensation under paragraph 14 or 19.

Terminal illness lump sum: application

- 25C An application for a terminal illness lump sum—
- (a) must be made in writing, either on a form approved by the Board for the purposes of this paragraph or in such other manner as the Board may accept as sufficient in the circumstances of the case;
- (b) must be accompanied by such information as the Board may require for the purpose of determining the application.

Terminal illness lump sum: determination of application

- 25D (1) The Board must determine an application for a terminal illness lump sum in accordance with this paragraph.
- (2) The Board must—
- (a) if satisfied that the conditions in paragraph 25B(1) are met in relation to the applicant, grant the application;
- (b) in any other case (subject to sub-paragraph (3)), reject the application.
- (3) The Board may hold over the application for determination at a later date if it is satisfied that—
- (a) although the condition in paragraph 25B(1)(a) is not met in relation to the applicant, the applicant suffers from a progressive disease and may become terminally ill within six months, and
- (b) the conditions in paragraph 25B(1)(b) to (d) are met in relation to the applicant.

Terminal illness lump sum: effect of successful application

- 25E (1) If the Board grants an application for a terminal illness lump sum, the applicant—
- (a) becomes entitled to a terminal illness lump sum calculated in accordance with this paragraph, and
- (b) loses the entitlement the applicant otherwise would have had on attaining the relevant age to relevant compensation in relation to the scheme.
- (2) The amount of the terminal illness lump sum is 2 times the sum of—
- (a) the periodic compensation annual amount, and
- (b) the lump sum compensation annual amount.

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- (3) In sub-paragraph (2) “the periodic compensation annual amount” means the annual amount to which the applicant would have been entitled under paragraph 11 or 15 in relation to the scheme in the year following the granting of the application, if the applicant had attained the relevant age on the granting of the application.
- (4) In sub-paragraph (2) “the lump sum compensation annual amount” means the annualised value of the lump sum to which the applicant would have been entitled under paragraph 14 or 19 in relation to the scheme on the granting of the application, if the applicant had attained the relevant age on the granting of the application.
- (5) In sub-paragraph (4) “the annualised value” of a lump sum means the annualised actuarially equivalent amount of that sum, determined in accordance with actuarial factors published by the Board.
- (6) In this paragraph “relevant compensation” and “the relevant age” have the same meanings as in paragraph 25B.

Terminal illness lump sum: information

- 25F (1) Relevant information held by the Secretary of State about an individual may be disclosed to the Board for use for a purpose relating to—
- (a) the Board’s functions under paragraphs 25B to 25E;
 - (b) the compliance of the trustees or managers of a pension scheme with section 138 (limit on amount of scheme benefits payable during an assessment period).
- (2) In sub-paragraph (1) “relevant information” means information held for the purposes of any function of the Secretary of State relating to—
- (a) social security, or
 - (b) any scheme made under section 286 (financial assistance scheme).”
- 15 In paragraph 33, make the existing provision sub-paragraph (1) and at the end add—
- “(2) Where the scheme is a variable-rate scheme, regulations under this paragraph may have the effect that the amount of periodic compensation payable to a person is, from a specified time, to be different from the amount that would otherwise be payable under this Schedule.
- (3) A “variable-rate scheme” is a scheme under which the annual rate of pension to which a person is entitled would have increased (otherwise than by way of revaluation) or decreased at any time after the assessment date, had the scheme continued in existence until that time (and had the scheme rules remained unchanged).
 - (4) Where the scheme is a fixed-term scheme, regulations under this paragraph may have the effect that no periodic compensation is to be payable to a person from a specified time.
 - (5) A “fixed-term scheme” is a scheme under which a person’s entitlement to benefits would have ceased at any time after the assessment date, had the scheme continued in existence until that time (and had the scheme rules remained unchanged).

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- (6) In this paragraph “a specified time” means a time determined in accordance with regulations under this paragraph.”
- 16 In paragraph 34(1), after “ill health” insert “or otherwise”.
- 17 For paragraph 35(2)(a) substitute—
- “(a) in the case of a scheme to which sub-paragraph (3) applies, any recent rule changes, and”.
- 18 For paragraph 35(3) substitute—
- “(3) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account—
- (a) any recent rule changes, and
- (b) any recent discretionary increases,
- is that those liabilities are greater than they otherwise would be.”

SCHEDULE 9

Section 126

CONTRIBUTION NOTICES AND FINANCIAL SUPPORT DIRECTIONS UNDER PENSIONS ACT 2004

Introduction

- 1 The Pensions Act 2004 (c. 35) is amended as follows.

Contribution notices: material detriment test

- 2 (1) In section 38(5)(a) (main purpose or one of main purposes of act or failure to prevent recovery of employer debt under section 75 of the Pensions Act 1995 (c. 26) etc.), after “is of the opinion that” insert “the material detriment test is met in relation to the act or failure (see section 38A) or that”.
- (2) After section 38 insert—

“38A Section 38 contribution notice: meaning of “material detriment test”

- (1) For the purposes of section 38 the material detriment test is met in relation to an act or failure if the Regulator is of the opinion that the act or failure has detrimentally affected in a material way the likelihood of accrued scheme benefits being received (whether the benefits are to be received as benefits under the scheme or otherwise).
- (2) In this section any reference to accrued scheme benefits being received is a reference to benefits the rights to which have accrued by the relevant time being received by, or in respect of, the persons who were members of the scheme before that time.
- (3) In this section “the relevant time” means—
- (a) in the case of an act, the time of the act, or
- (b) in the case of a failure—
- (i) the time when the failure occurred, or

- (ii) where the failure continued for a period of time, the time which the Regulator determines and which falls within that period;
- and, in the case of acts or failures to act forming part of a series, any reference in this subsection to an act or failure is a reference to the last of the acts or failures in that series.
- (4) In deciding for the purposes of section 38 whether the material detriment test is met in relation to an act or failure, the Regulator must have regard to such matters as it considers relevant, including (where relevant)—
- (a) the value of the assets or liabilities of the scheme or of any relevant transferee scheme,
 - (b) the effect of the act or failure on the value of those assets or liabilities,
 - (c) the scheme obligations of any person,
 - (d) the effect of the act or failure on any of those obligations (including whether the act or failure causes the country or territory in which any of those obligations would fall to be enforced to be different),
 - (e) the extent to which any person is likely to be able to discharge any scheme obligation in any circumstances (including in the event of insolvency or bankruptcy),
 - (f) the extent to which the act or failure has affected, or might affect, the extent to which any person is likely to be able to do as mentioned in paragraph (e), and
 - (g) such other matters as may be prescribed.
- (5) In subsection (4) “scheme obligation” means a liability or other obligation (including one that is contingent or otherwise might fall due) to make a payment, or transfer an asset, to—
- (a) the scheme, or
 - (b) any relevant transferee scheme in respect of any persons who were members of the scheme before the relevant time.
- (6) In this section—
- (a) “relevant transferee scheme” means any work-based pension scheme to which any accrued rights to benefits under the scheme are transferred;
 - (b) any reference to the assets or liabilities of any relevant transferee scheme is a reference to those assets or liabilities so far as relating to persons who were members of the scheme before the relevant time.
- (7) For the purposes of subsection (6)(a) the reference to the transfer of accrued rights of members of a pension scheme to another pension scheme includes a reference to the extinguishing of those accrued rights in consequence of the obligation to make a payment, or transfer an asset, to that other scheme.
- (8) In this section—
- (a) “work-based pension scheme” has the meaning given by section 5(3);
 - (b) any reference to rights which have accrued is to be read in accordance with section 67A(6) and (7) of the Pensions Act 1995

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(reading any reference in those subsections to a subsisting right as a reference to a right which has accrued).

- (9) In deciding for the purposes of this section whether an act or failure has detrimentally affected in a material way the likelihood of accrued scheme benefits being received, the following provisions of this Act are to be disregarded—
- (a) Chapter 3 of Part 2 (the Board of the Pension Protection Fund: pension protection), and
 - (b) section 286 (the financial assistance scheme for members of certain pension schemes).
- (10) Regulations may amend any provision of subsections (4) to (8).

38B Section 38 contribution notice issued by reference to material detriment test: defence

- (1) This section applies where—
- (a) a warning notice is given to any person (“P”) in respect of a contribution notice under section 38, and
 - (b) the contribution notice under consideration would be issued wholly or partly by reference to the Regulator’s opinion that the material detriment test is met in relation to an act or deliberate failure to act to which P was a party.
- (2) If the Regulator is satisfied that P has shown that—
- (a) conditions A and C are met, and
 - (b) where applicable, condition B is met,
- the Regulator must not issue the contribution notice by reference to its being of the opinion mentioned in subsection (1)(b).
- (3) Condition A is that, before becoming a party to the act or failure, P gave due consideration to the extent to which the act or failure might detrimentally affect in a material way the likelihood of accrued scheme benefits being received.
- (4) Condition B is that, in any case where as a result of that consideration P considered that the act or failure might have such an effect, P took all reasonable steps to eliminate or minimise the potential detrimental effects that the act or failure might have on the likelihood of accrued scheme benefits being received.
- (5) Condition C is that, having regard to all relevant circumstances prevailing at the relevant time, it was reasonable for P to conclude that the act or failure would not detrimentally affect in a material way the likelihood of accrued scheme benefits being received.
- (6) P is to be regarded as giving the consideration mentioned in condition A only if P has made the enquiries, and done the other acts, that a reasonably diligent person would have made or done in the circumstances.
- (7) For the purposes of condition C—
- (a) “the relevant time” means the time at which the act occurred or the failure to act first occurred;

- (b) the reference to the circumstances mentioned in that condition is a reference to those circumstances of which P was aware, or ought reasonably to have been aware, at that time (including acts or failures to act which have occurred before that time and P's expectation at that time of other acts or failures to act occurring).
- (8) In the case of acts or failures to act forming part of a series, P is to be regarded as having shown the matters mentioned in subsection (2) if P shows in the case of each of the acts or failures in the series that—
- (a) conditions A and C are met, and (where applicable) condition B is met, in relation to the act or failure, or
 - (b) the act or failure was one of a number of acts or failures (a “group” of acts or failures) selected by P in relation to which the following matters are shown.
- (9) The matters to be shown are that—
- (a) before becoming a party to the first of the acts or failures in the group, condition A is met in relation to the effect of the acts or failures in the group taken together,
 - (b) condition B is (where applicable) met in relation to that effect, and
 - (c) condition C is then met in relation to each of the acts or failures in the group (determined at the time at which each act or failure concerned occurred or first occurred).
- (10) If at any time P considers that condition C will not be met in relation to any particular act or failure in the group—
- (a) the previous acts or failures in the group are to be regarded as a separate group for the purposes of subsection (8), and
 - (b) P may then select another group consisting of the particular act or failure concerned, and any subsequent act or failure, in relation to which P shows the matters mentioned in subsection (9).

Nothing in paragraph (b) is to be read as preventing P from showing the matters mentioned in subsection (8)(a).

- (11) If—
- (a) P is unable to show in the case of each of the acts or failures in the series that the matters set out in subsection (8)(a) or (b) are met, but
 - (b) does show in the case of some of them that those matters are met,
- the acts or failures within paragraph (b) are not to count for the purposes of section 38A as acts or failures to act in the series.
- (12) In this section—
- (a) “a warning notice” means a notice given as mentioned in section 96(2)(a);
 - (b) any reference to an act or failure to which a person is a party has the same meaning as in section 38(6)(a);
 - (c) any reference to the accrued scheme benefits being received has the same meaning as in section 38A;
- and subsection (9) of section 38A applies for the purposes of conditions A to C as it applies for the purposes of that section.

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- (13) Regulations may amend this section.”
- 3 In section 90(2) (the matters in relation to which the Pensions Regulator must issue codes of practice), after paragraph (a) insert—
- “(aa) the circumstances in which the Regulator expects to issue contribution notices under section 38 as a result of being of the opinion that the material detriment test is met in relation to an act or failure;”.
- 4 In section 96 (standard procedure), after subsection (1) insert—
- “(1A) In any case where—
- (a) a warning notice is given to any person in respect of a contribution notice under section 38, and
- (b) the contribution notice under consideration would be issued wholly or partly by reference to the Regulator’s opinion that the material detriment test is met in relation to an act or failure,
- the standard procedure must provide for the following matters.
- (1B) The matters are—
- (a) a requirement for the warning notice to explain the general effect of section 38B, and
- (b) a requirement for the person to be given an opportunity before the contribution notice is issued to show the matters mentioned in subsection (2) of that section.”
- 5 In section 316(2) (subordinate legislation that is subject to affirmative resolution procedure), before paragraph (a) insert—
- “(za) regulations under section 38A(10) or 38B(13) (section 38 contribution notices: “the material detriment test”);”.

Contribution notices: acting or failing to act otherwise than in good faith

- 6 In section 38(5) (acts or failures to act in relation to which Pensions Regulator may issue contribution notices), in paragraph (a)(ii), omit “otherwise than in good faith,”.

Whether reasonable for Pensions Regulator to issue contribution notice

- 7 (1) Section 38 (contribution notices where avoidance of employer debt) is amended as follows.
- (2) In subsection (3) (conditions which must be met before Pensions Regulator can issue contribution notice), for paragraph (d) substitute—
- “(d) the Regulator is of the opinion that it is reasonable to impose liability on the person to pay the sum specified in the notice, having regard to—
- (i) the extent to which, in all the circumstances of the case, it was reasonable for the person to act, or fail to act, in the way that the person did, and
- (ii) such other matters as the Regulator considers relevant, including (where relevant) the matters falling within subsection (7).”

- (3) In subsection (7) (list of relevant matters for purposes of subsection (3)(d))—
- (a) for the words from the beginning to “the following matters—” substitute “The matters within this subsection are—”; and
 - (b) after paragraph (e) insert—
 - “(ea) the value of any benefits which directly or indirectly the person receives, or is entitled to receive, from the employer or under the scheme;
 - (eb) the likelihood of relevant creditors being paid and the extent to which they are likely to be paid;”.
- (4) After that subsection insert—
- “(7A) In subsection (7)(eb) “relevant creditors” means—
- (a) creditors of the employer, and
 - (b) creditors of any other person who has incurred a liability or other obligation (including one that is contingent or otherwise might fall due) to make a payment, or transfer an asset, to the scheme.”

Contribution notices: series of acts or failures to act

- 8 (1) In section 38 (contribution notices where avoidance of employer debt), at the end insert—
- “(12) Subsection (13) applies if the Regulator is of the opinion that—
- (a) a person was a party to a series of acts or failures to act,
 - (b) each of the acts or failures in the series falls within subsection (5) (b) and (c), and
 - (c) the material detriment test is met in relation to the series, or the main purpose or one of the main purposes of the series was as mentioned in subsection (5)(a)(i) or (ii).
- (13) The series of acts or failures to act is to be regarded as an act or failure to act falling within subsection (5) (and, accordingly, the reference in subsection (6)(b)(i) to the act or failure to act falling with subsection (5) is to the first of the acts or failures to act in the series).”
- (2) In section 39 (the sum specified in a section 38 contribution notice)—
- (a) in subsection (4), after “means” insert “(subject to subsection (4A))”; and
 - (b) after subsection (4) insert—

“(4A) In the case of a series of acts or failures to act, “the relevant time” is determined by reference to whichever of the acts or failures in the series is, in the Regulator’s opinion, most appropriate.”

Contribution notices and financial support directions: bulk transfers

- 9 After section 39 (the sum specified in a section 38 contribution notice) insert—
- “39A Section 38 contribution notice: transfer of members of the scheme**
- (1) This section applies where—

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- (a) the Regulator is of the opinion that in relation to a scheme (“the initial scheme”) in relation to which section 38 applies—
 - (i) an act or failure to act falling within subsection (5) of that section has occurred (or first occurred) at any time, and
 - (ii) the other conditions in that section for issuing a contribution notice are met in relation to the initial scheme (or, but for any transfer falling within paragraph (b), would be met), and
 - (b) the accrued rights of at least two persons who were members of the initial scheme are transferred at that or any subsequent time to one or more work-based pension schemes (whether by virtue of the act or otherwise).
- (2) The Regulator may issue a contribution notice under section 38 in relation to any transferee scheme (and, accordingly, any reference in section 40 or 41 to the scheme is to the transferee scheme).
- (3) In the case of any contribution notice issued by virtue of subsection (2) to any transferee scheme which is not within subsection (5)(a) or (b), section 39 has effect as if any reference in that section to the scheme were a reference to whichever of—
- (a) the initial scheme, and
 - (b) the transferee scheme,
- the Regulator determines to be more appropriate in the circumstances.
- (4) In any case where section 39 has effect in relation to the transferee scheme by virtue of subsection (3), any reference in that section to a debt under section 75 of the 1995 Act is a reference to so much of that debt as, in the Regulator’s opinion, is attributable to those members of the transferee scheme who were members of the initial scheme.
- (5) In the case of any contribution notice issued by virtue of subsection (2) to any transferee scheme which is—
- (a) a scheme to which section 75 of the 1995 Act does not apply, or
 - (b) a scheme to which that section does apply in a case where the liabilities of the scheme that would be taken into account for the purposes of that section do not relate to the members of the initial scheme,
- the sum specified by the Regulator in the notice is determined in accordance with regulations (and not in accordance with section 39).
- (6) The Regulator may also issue a direction to the trustees or managers of any transferee scheme requiring them to take specified steps to secure that the sum payable under the notice is applied for the benefit of the members of the transferee scheme who were members of the initial scheme.
- (7) If the trustees or managers fail to comply with a direction issued to them under subsection (6), section 10 of the 1995 Act (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

39B Section 39A: supplemental

- (1) In section 39A a “transferee scheme”, in relation to any time, means any work-based pension scheme—
 - (a) to which the accrued rights of at least two persons who were members of the initial scheme have been transferred, and
 - (b) of which any of those persons are members at that time.
- (2) For the purposes of section 39A(1) and subsection (1) above it does not matter whether any rights are transferred to a work-based pension scheme directly from the initial scheme or following one or more other transfers to other work-based pension schemes.
- (3) For the purposes of section 39A and this section references to the transfer of accrued rights of members of a pension scheme to another pension scheme include references to the extinguishing of those accrued rights in consequence of the obligation to make a payment, or transfer an asset, to that other scheme.
- (4) In section 39A and this section—
 - (a) “the 1995 Act” means the Pensions Act 1995;
 - (b) “work-based pension scheme” has the meaning given by section 5(3);
 - (c) any reference to rights which have accrued is to be read in accordance with section 67A(6) and (7) of the 1995 Act (reading any reference in those subsections to a subsisting right as a reference to a right which has accrued).
- (5) Section 39A applies even if the initial scheme—
 - (a) is wound up as a result of any transfer falling within subsection (1) (b) of that section, or
 - (b) otherwise ceases to exist at the time of the transfer or at any subsequent time.
- (6) Accordingly, in any such case, in subsection (1) of that section—
 - (a) the reference to a scheme to which section 38 applies is a reference to a scheme which was such a scheme before the transfer;
 - (b) the reference to any conditions in section 38 being met is a reference to any conditions in that section that, but for the transfer, would have been met in relation to the scheme.
- (7) Nothing in section 39A or this section is to be read as preventing the Regulator from issuing a contribution notice in relation to the initial scheme.
- (8) Regulations may make provision applying, with or without modifications, any provision made by or under section 39A or this section in relation to any scheme or other arrangement in any case where the accrued rights of persons who were members of the initial scheme are transferred or extinguished directly or indirectly in consequence of or otherwise in connection with—
 - (a) the making of any payment at any time to or for the benefit of the scheme or other arrangement,

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- (b) the transfer of any asset at any time to or for the benefit of the scheme or other arrangement,
 - (c) the discharge (wholly or partly) at any time of any liability incurred by or on behalf of the scheme or other arrangement, or
 - (d) the incurring at any time of any obligation to do any act falling within paragraph (a) to (c).
- (9) Any reference in subsection (8)(a) to (d) to the doing of an act of any description at any time in relation to the scheme or other arrangement includes a reference to the doing of an act of that description at any previous time in relation to any other scheme or other arrangement.
- (10) Regulations under subsection (8) may—
- (a) make provision having effect in relation to any case where rights are transferred or extinguished on or after the date on which the Secretary of State publishes a statement of the intention to make the regulations; and
 - (b) without prejudice to section 315(5), make consequential provision applying with modifications any provision of this Act which relates to contribution notices under section 38.”
- 10 After section 43 (financial support directions) insert—

“43A Financial support directions: transfer of members of the scheme

- (1) This section applies where—
- (a) the Regulator is of the opinion by reference to any time that the conditions in section 43 for issuing a financial support direction are met in relation to a scheme (“the initial scheme”) in relation to which that section applies (or, but for any transfer falling within paragraph (b), would be met), and
 - (b) the accrued rights of at least two persons who were members of the initial scheme are transferred at any subsequent time to one or more work-based pension schemes.
- (2) The Regulator may issue a financial support direction under that section in relation to any transferee scheme (and, accordingly, any reference in section 45 or any of sections 47 to 50 to the scheme is to the transferee scheme).
- (3) The Regulator may also issue a direction to the trustees or managers of any transferee scheme requiring them to take specified steps to secure that the financial support is put in place for the benefit of the members of the transferee scheme who were members of the initial scheme.
- (4) If the trustees or managers fail to comply with a direction issued to them under subsection (3), section 10 of the 1995 Act (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

43B Section 43A: supplemental

- (1) In section 43A a “transferee scheme”, in relation to any time, means any work-based pension scheme—

- (a) to which the accrued rights of at least two persons who were members of the initial scheme have been transferred, and
 - (b) of which any of those persons are members at that time.
- (2) For the purposes of section 43A(1) and subsection (1) above it does not matter whether any rights are transferred to a work-based pension scheme directly from the initial scheme or following one or more other transfers to other work-based pension schemes.
- (3) For the purposes of section 43A and this section references to the transfer of accrued rights of members of a pension scheme to another pension scheme include references to the extinguishing of those accrued rights in consequence of the obligation to make a payment, or transfer an asset, to that other scheme.
- (4) In section 43A and this section—
 - (a) “the 1995 Act” means the Pensions Act 1995;
 - (b) “work-based pension scheme” has the meaning given by section 5(3);
 - (c) any reference to rights which have accrued is to be read in accordance with section 67A(6) and (7) of the 1995 Act (reading any reference in those subsections to a subsisting right as a reference to a right which has accrued).
- (5) Section 43A applies even if the initial scheme—
 - (a) is wound up as a result of any transfer falling within subsection (1) (b) of that section, or
 - (b) otherwise ceases to exist at the time of the transfer or at any subsequent time.
- (6) Accordingly, in any such case, in subsection (1) of that section—
 - (a) the reference to a scheme to which section 43 applies is a reference to a scheme which was such a scheme before the transfer;
 - (b) the reference to any conditions in section 43 being met is a reference to any conditions in that section that, but for the transfer, would have been met in relation to the scheme.
- (7) Nothing in section 43A or this section is to be read as preventing the Regulator from issuing a financial support direction in relation to the initial scheme.
- (8) Regulations may make provision applying, with or without modifications, any provision made by section 43A or this section in relation to any scheme or other arrangement in any case where the accrued rights of persons who were members of the initial scheme are transferred or extinguished directly or indirectly in consequence of or otherwise in connection with—
 - (a) the making of any payment at any time to or for the benefit of the scheme or other arrangement,
 - (b) the transfer of any asset at any time to or for the benefit of the scheme or other arrangement,
 - (c) the discharge (wholly or partly) at any time of any liability incurred by or on behalf of the scheme or other arrangement, or

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- (d) the incurring at any time of any obligation to do any act falling within paragraph (a) to (c).
- (9) Any reference in subsection (8)(a) to (d) to the doing of an act of any description at any time in relation to the scheme or other arrangement includes a reference to the doing of an act of that description at any previous time in relation to any other scheme or other arrangement.
- (10) Regulations under subsection (8) may—
- (a) make provision having effect in relation to any case where rights are transferred or extinguished on or after the date on which the Secretary of State publishes a statement of the intention to make the regulations; and
- (b) without prejudice to section 315(5), make consequential provision applying with modifications any provision of this Act which relates to financial support directions under section 43.”
- 11 In section 306(2) (overriding requirements)—
- (a) after paragraph (d) insert—
- “(da) any direction issued by the Regulator under section 39A(6);” and
- (b) after paragraph (e) insert—
- “(ea) any direction issued by the Regulator under section 43A(3);”.
- 12 In section 316(2) (subordinate legislation that is subject to affirmative resolution procedure), after paragraph (za) (as inserted by paragraph 5 of this Schedule) insert—
- “(zb) regulations under section 39A(5), 39B(8) or 43B(8) (contribution notices and financial support directions: bulk transfers);”.
- 13 In Part 4 of Schedule 2 (the reserved regulatory functions of Pensions Regulator: functions under 2004 Act)—
- (a) after paragraph 30 insert—
- “30A The power to issue a direction under section 39A(6) to any person.”; and
- (b) after paragraph 33 insert—
- “33A The power to issue a direction under section 43A(3) to any person.”

Financial support directions: meaning of “insufficiently resourced”

- 14 (1) In section 44(3) (meaning of “insufficiently resourced”), for paragraph (b) substitute—
- “(b) condition A or B is met.”
- (2) After subsection (3) insert—
- “(3A) Condition A is met if—
- (a) there is at that time a person who falls within section 43(6)(b) or (c), and

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- (b) the value at that time of that person’s resources is not less than the relevant deficit, that is to say the amount which is the difference between—
 - (i) the value of the resources of the employer, and
 - (ii) the amount which is the prescribed percentage of the estimated section 75 debt.
- (3B) Condition B is met if—
- (a) there are at that time two or more persons who—
 - (i) fall within section 43(6)(b) or (c), and
 - (ii) are connected with, or associates of, each other, and
 - (b) the aggregate value at that time of the resources of the persons who fall within paragraph (a) (or any of them) is not less than the relevant deficit.”
- (3) In subsection (4), for “subsection (3)” substitute “subsections (3) to (3B)”.

Effect of amendments made by this Schedule

- 15
- (1) The amendments made by paragraphs 2, 6 and 7 have effect in relation to any act occurring, or any failure to act first occurring, on or after 14 April 2008.
 - (2) The amendments made by paragraph 8 have effect—
 - (a) for the purposes of the material detriment test, where at least one of the acts or failures to act occurs or first occurs on or after 14 April 2008, and
 - (b) for all other purposes, where at least one of the acts or failures to act occurs or first occurs on or after the day on which this Act is passed.
 - (3) The amendments made by paragraphs 9 and 10 have effect in relation to any case where rights are transferred or extinguished on or after 14 April 2008.
 - (4) The amendment made by paragraph 14 has effect so as to enable the Pensions Regulator to issue a financial support direction under section 43 of the Pensions Act 2004 by reference to any time falling on or after 14 April 2008.

Transitional provision

- 16
- (1) In the case of the first set of regulations made under subsection (8) of section 39B of that Act, subsection (10)(a) of that section has effect as if for the words from “the date” to “the regulations” there were substituted “20 October 2008”.
 - (2) In the case of the first set of regulations made under subsection (8) of section 43B of that Act, subsection (10)(a) of that section has effect as if for the words from “the date” to “the regulations” there were substituted “20 October 2008”.

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SCHEDULE 10

Section 129

INTEREST ON LATE PAYMENT OF LEVIES

Pension Schemes Act 1993 (c. 48)

1 After section 175 of the Pension Schemes Act 1993 (levies towards certain expenditure) insert—

“175A Levies: interest for late payment

- (1) Regulations may make provision for interest to be charged at the prescribed rate in the case of late payment of a levy imposed under section 175(1).
- (2) Interest is payable by or on behalf of the person or persons by or on behalf of whom the levy is payable.
- (3) Interest payable by a person by virtue of this section is a debt due from the person to the Secretary of State.
- (4) Interest is recoverable by the Secretary of State or, if the Secretary of State so determines, by the Regulatory Authority on the Secretary of State’s behalf.
- (5) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to—
 - (a) the collection and recovery of interest;
 - (b) the circumstances in which interest may be waived.”

Pensions Act 2004 (c. 35)

2 The Pensions Act 2004 is amended as follows.

3 After section 117 (PPF administration levy) insert—

“117A Administration levy: interest for late payment

- (1) Regulations may make provision for interest to be charged at the prescribed rate in the case of late payment of an administration levy.
- (2) Interest is payable by or on behalf of the person or persons by or on behalf of whom the levy is payable.
- (3) Interest payable by a person by virtue of this section is a debt due from the person to the Secretary of State.
- (4) Interest is recoverable by the Secretary of State or, if the Secretary of State so determines, by the Regulator on the Secretary of State’s behalf.
- (5) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to—
 - (a) the collection and recovery of interest;
 - (b) the circumstances in which interest may be waived.”

4 In section 173 (Pension Protection Fund), after subsection (1)(b) insert—

- “(ba) interest paid by virtue of section 181A (interest for late payment of pension protection levy).”

5 After section 181 (calculation, collection and recovery of levies) insert—

“181A Pension protection levy: interest for late payment

- (1) Regulations may make provision for interest to be charged at the prescribed rate in the case of late payment of a pension protection levy.
- (2) Interest is payable by or on behalf of the person or persons by or on behalf of whom the levy is payable.
- (3) Interest payable by a person by virtue of this section is a debt due from the person to the Board.
- (4) Interest is recoverable by the Board or, if the Board so determines, by the Regulator on its behalf.
- (5) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to—
 - (a) the collection and recovery of interest;
 - (b) the circumstances in which interest may be waived.”

6 In section 188 (Fraud Compensation Fund), after subsection (1)(b) insert—

“(ba) interest paid by virtue of section 189A (interest for late payment of fraud compensation levy),”.

7 After section 189 (fraud compensation levy) insert—

“189A Fraud compensation levy: interest for late payment

- (1) Regulations may make provision for interest to be charged at the prescribed rate in the case of late payment of a fraud compensation levy.
- (2) Interest is payable by or on behalf of the person or persons by or on behalf of whom the levy is payable.
- (3) Interest payable by a person by virtue of this section is a debt due from the person to the Board.
- (4) Interest is recoverable by the Board or, if the Board so determines, by the Regulator on its behalf.
- (5) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to—
 - (a) the collection and recovery of interest;
 - (b) the circumstances in which interest may be waived.”

8 In section 209 (Ombudsman for the Board of the Pension Protection Fund), at the end add—

“(9) Where regulations make provision under subsection (7), section 117A (interest for late payment of administration levy) applies in relation to the levy as it applies in relation to an administration levy.”

9 In section 323(2)(b)(i) (provisions extending to Northern Ireland), for “subsections (7) and (8)” substitute “subsections (7) to (9)”.

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SCHEDULE 11

Section 148

REPEALS

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

| <i>Title</i> | <i>Extent of repeal</i> |
|--|--|
| Welfare Reform and Pensions Act 1999 (c. 30) | <p>In section 3—</p> <ul style="list-style-type: none"> (a) subsections (2) to (4); (b) in subsection (5), “fourth” and the words from “of his” to “qualifying scheme”; (c) subsection (6); (d) subsection (8)(a)(ii) and (iii); (e) in subsection (9), the definitions of “qualifying scheme” and “relevant employees”. <p>Section 6(1), (2) and (4).</p> <p>In section 8(1), the definition of “designated scheme”.</p> |
| Employment Relations Act 2004 (c. 24) | Section 41(1) and (2). |
| Pensions Act 2004 (c. 35) | In section 80(1)(a), at the end of subparagraph (iii), the word “or”. |
| Pensions Act 2007 (c. 22) | <p>Section 21.</p> <p>Section 23(2) to (4).</p> <p>In Schedule 6, in paragraph 7(3)(a), the words “employees who are”.</p> |

PART 2

SAFEGUARDED RIGHTS

| <i>Title</i> | <i>Extent of repeal</i> |
|--|---|
| Social Security Contributions and Benefits Act 1992 (c. 4) | In Schedule 4B, in paragraph 12, the definition of “assumed surplus”. |
| Pension Schemes Act 1993 (c. 48) | <p>In section 50(1)—</p> <ul style="list-style-type: none"> (a) paragraph (a)(iii); (b) in paragraph (b), the words “, or safeguarded”. <p>In section 52—</p> <ul style="list-style-type: none"> (a) subsection (2A)(c); |

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| <i>Title</i> | <i>Extent of repeal</i> |
|--|--|
| | (b) in subsection (3)(b), the words “, or safeguarded,” (in both places). Sections 68A to 68D. In section 181(1), the definition of “safeguarded rights”. |
| Welfare Reform and Pensions Act 1999 (c. 30) | Section 36. In section 40— (a) subsection (2)(b) and the word “and” preceding it; (b) in subsection (3), in the definition of “relevant pension credit”, the words “or, as the case may be, the safeguarded rights”; (c) in that subsection, the definition of “safeguarded rights”. In Schedule 5, paragraph 7(2) and (6). In Schedule 12— (a) paragraphs 29 and 30; (b) paragraph 41(b). |
| Proceeds of Crime Act 2002 (c. 29) | In Schedule 11, paragraph 22(5). |
| Pensions Act 2007 (c. 22) | In Schedule 4— (a) paragraph 27; (b) paragraph 40. |

PART 3

CONTRACTING-OUT: ABOLITION OF ALL PROTECTED RIGHTS

| <i>Title</i> | <i>Extent of repeal</i> |
|----------------------------------|--|
| Pension Schemes Act 1993 (c. 48) | Section 10. Sections 25A to 27A. Section 30. Sections 32 and 32A. Section 33A. |
| Pensions Act 2007 (c. 22) | In Schedule 4, paragraphs 5, 8 to 10 and 12 to 14. |

These repeals have effect in accordance with section 106.

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PART 4

PENSION COMPENSATION

| <i>Title</i> | <i>Extent of repeal</i> |
|--|---|
| Matrimonial Causes Act 1973 (c. 18) | In section 25E(9), the definition of “PPF compensation”. In section 31(2)(dd), at the end of subparagraph (i), the word “or”. |
| Family Law (Scotland) Act 1985 (c. 37) | Section 8(4A). |
| Civil Partnership Act 2004 (c. 33) | In Schedule 5— (a) at the end of paragraph 20(a)(iii), the word “or”; (b) at the end of paragraph 21(1)(c), the word “or”; (c) at the end of paragraph 23(1)(c), the word “or”; (d) paragraph 30(3); (e) at the end of paragraph 50(1)(f)(i), the word “or”. In Schedule 7, in paragraph 10(9)(c), the words “Part 7 of”. |
| Pensions Act 2004 (c. 35) | In section 173(5), the words “of this Act”. |

PART 5

FINANCIAL ASSISTANCE SCHEME

| <i>Title</i> | <i>Extent of repeal</i> |
|---------------------------|--|
| Pensions Act 2004 (c. 35) | In section 286(2), the definition of “scheme’s pension liabilities” and the words from “and a qualifying pension scheme” to the end. |

PART 6

MISCELLANEOUS

| <i>Title</i> | <i>Extent of repeal</i> |
|---|--|
| Social Security Pensions Act 1975 (c. 60) | In section 59(5ZA), the words from “but this subsection” to the end. |
| Pensions Act 1995 (c. 26) | In section 7(3), at the end of paragraph (b), the word “or”. |

The repeal in section 38(5)(a)(ii) of the Pensions Act 2004 (c. 35) has effect in accordance with paragraph 15(1) of Schedule 9 to this Act.

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| <i>Title</i> | <i>Extent of repeal</i> |
|---------------------------|---|
| Pensions Act 2004 (c. 35) | In section 38(5)(a)(ii), the words “otherwise than in good faith,”. Section 321. In Schedule 1, paragraph 28. |

The repeal in section 38(5)(a)(ii) of the Pensions Act 2004 (c. 35) has effect in accordance with paragraph 15(1) of Schedule 9 to this Act.
