



# Pensions Act 2011

## 2011 CHAPTER 19

### PART 3

#### OCCUPATIONAL PENSION SCHEMES

##### *Miscellaneous*

#### **25 Payment of surplus to employer: transitional power to amend scheme**

- (1) Section 251 of the Pensions Act 2004 (payment of surplus to employer: transitional power to amend scheme) is amended as follows.
- (2) In subsection (1) after “scheme” insert—
  - “(a) which is one to which section 37 of the Pensions Act 1995 applies, and
  - (b)”.
- (3) After subsection (2) insert—

“(2A) But subsection (2) does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments).”
- (4) In subsection (3) for “then applied” substitute “applied immediately before the commencement of section 250”.
- (5) In subsection (6)—
  - (a) after paragraph (a) insert—
    - “(aa) may be exercised even if the payments to which it relates are, to any extent, payments to which subsection (2) does not apply.”;

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) in paragraph (b) for “only be exercised once” substitute “be exercised, after the commencement of section 25 of the Pensions Act 2011, only once (whether or not also exercised before 6 April 2011)”;
- (c) in paragraph (c) for “five years after the commencement of this section” substitute “on 6 April 2016”.

(6) After subsection (6) insert—

“(6A) A resolution passed under this section after the commencement of section 25 of the Pensions Act 2011 may amend or revoke a resolution passed under this section before 6 April 2011.”

(7) The amendments made by this section do not affect the continued operation of any resolution passed under section 251(3) or (4) of the 2004 Act before 6 April 2011.

## **26 Contribution notices and financial support directions**

(1) Section 38 of the Pensions Act 2004 (contribution notices where avoidance of employer debt) is amended as follows.

(2) In subsections (5)(c)(i) and (6)(b)(ii) for “determination by the Regulator to exercise the power to issue” substitute “giving of a warning notice in respect of”.

(3) After subsection (13) insert—

“(14) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).”

(4) Section 43 of the Pensions Act 2004 (financial support directions) is amended as follows.

(5) In subsection (9) for “determination by the Regulator to exercise the power to issue” substitute “giving of a warning notice in respect of”.

(6) After subsection (11) insert—

“(12) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).”

(7) In section 96 of the Pensions Act 2004 (exercise of regulatory functions: standard procedure) after subsection (6) insert—

“(6A) Subsection (6B) applies in relation to a warning notice given to a person—

- (a) in respect of a contribution notice under section 38, or
- (b) in respect of a financial support direction under section 43.

(6B) Regulations may provide that no determination notice in respect of the contribution notice or the financial support direction may be given after the end of the prescribed period beginning with the day on which the warning notice is given.”

## **27 Technical amendment to Schedule 4 to the Pensions Act 2007**

In Schedule 4 to the Pensions Act 2007 (abolition of contracting-out for defined contribution pension schemes) in paragraph 60(4) for paragraphs (b) and (c) substitute—

- “(b) in the definition of “the percentage for contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
  - (ii) omit paragraph (b) and the preceding “and”;
- (c) in the definition of “the percentage for non-contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
  - (ii) omit paragraph (b) and the preceding “and”.

## **28 Technical amendment to section 42(6) of the Pension Schemes Act 1993**

- (1) In section 42 of the Pension Schemes Act 1993 (review and alteration of rates of contributions applicable under section 41) in subsection (6) for “paragraph 2(3)” substitute “the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” in paragraph 2(5)”.
- (2) After that subsection insert—
  - “(7) Until paragraph 60(4) of Schedule 4 to the Pensions Act 2007 comes into force, subsection (6) has effect as if the reference to the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” were a reference to paragraph (a) of either of those definitions.”