

# Pensions Act 2011

## CHAPTER 19

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**PENSIONS ACT 2011****2011 CHAPTER 19**

*An Act to make provision relating to pensions; and for connected purposes.* [3rd November 2011]

*BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-*

**PART 1****STATE PENSION**

**1.** ..... amends 1995 (c. 26). See Annex 1, page 5.4053

(1)-(3) ..... amends 1992 (c. 5). See Annex 1, page 5.4053

(4) The repeal made by subsection (3) does not affect the application of section 151(5) of that Act in relation to a person who became entitled to a Category A or Category B retirement pension before the day on which subsection (3) comes into force.

(5) ..... amends 1992 (c. 5). See Annex 1, page 5.4053

(6) Schedule 2 (repeals and amendments consequential on subsection (5)) has effect.

(7) The repeals made by subsection (5) do not affect the application of paragraphs 5 to 6A of Schedule 5 to the Social Security Contributions and Benefits Act 1992 in a case where—

- (a) W became entitled to a Category A or Category B retirement pension before the day on which subsection (5) comes into force, and
- (b) S died before that day;

(and section 150(1)(d) of the Social Security Administration Act 1992 continues to apply accordingly).

(8) The enactments amended by Schedule 2 have effect in relation to such a case as if the repeals and amendments made by that Schedule (apart from the amendments made by paragraph 3(7) and (8)) had not been made.

(9) In subsection (7) “W” and “S” have the same meaning as in paragraph 5 of Schedule 5 to the Social Security Contributions and Benefits Act 1992.

(10) In this section a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day.

**3.** [...<sup>1</sup>]

**PART 2****AUTOMATIC ENROLMENT**

**4.—(1)** In section 2 (continuity of scheme membership) of the Pensions Act 2008 (“the 2008 Act”) for subsection (3) substitute—

“(3) Subsection (1) is not contravened if by virtue of section 5 the jobholder becomes an active member of an automatic enrolment scheme with effect from—

Automatic re-enrolment where scheme membership interrupted

<sup>1</sup> S. 3 repealed (1.10.14) by the Pensions Act 2014, Sch. 12, para. 97(b).

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- (a) the day after the cessation referred to in paragraph (a) or (b) of subsection (1), or
  - (b) a day within the prescribed period (if a period is prescribed).”
- (2) In section 5 of the 2008 Act (automatic re-enrolment) after subsection (1) insert—
- “(1A) This section also applies to a jobholder who—
  - (a) is aged at least 22,
  - (b) has not reached pensionable age, and
  - (c) is not an active member of a qualifying scheme because there has been a period beginning at any time after the jobholder’s automatic enrolment date during which the requirements of section 1(1)(a) or (c) were not met (so that the person was not a jobholder for that period).
- (1B) This section also applies to a jobholder who has ceased to be an active member of a qualifying scheme because of something other than an action or omission by the jobholder.”
- (3) For subsection (4) of that section substitute—
- “(4) Regulations may provide for subsection (2) not to apply in relation to a jobholder who in prescribed circumstances—
  - (a) has ceased to be an active member of a qualifying scheme because of any action or omission by the jobholder, or by the employer at the jobholder’s request, or
  - (b) is treated as not being an active member of a qualifying scheme because the jobholder has given notice under section 8.”
- (4) In subsection (8) of that section omit “, after the automatic enrolment date,”.
- (5) In section 6 of the 2008 Act (timing of automatic re-enrolment) in subsection (4)—
- (a) in paragraph (a) omit “at any time after the jobholder’s automatic enrolment date,”;
  - (b) in that paragraph omit “or a qualifying scheme of which the jobholder is an active member ceases to be such a scheme”;
  - (c) in paragraph (b) omit “or the employer”;
  - (d) in paragraph (c) for “time” substitute “event”.
- (6) In section 54 of the 2008 Act (inducements)—
- (a) in subsection (1)(a) for “within the period prescribed under section 2(3)” substitute “with effect from—
  - (i) the day after the membership is given up, or
  - (ii) a day within the prescribed period (if a period is prescribed)”;
  - (b) in subsection (1)(b) for “within the period prescribed under section 2(3)” substitute “with effect from—
  - (i) the day on which the jobholder became an active member of the scheme to which the notice relates, or
  - (ii) a day within the prescribed period (if a period is prescribed)”.
- 5.—**(1) In section 3 of the 2008 Act (automatic enrolment) for subsection (1) substitute—
- “(1) This section applies to a jobholder—
  - (a) who is aged at least 22,
  - (b) who has not reached pensionable age, and
  - (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”

Earnings trigger for automatic enrolment and re-enrolment

(2) After subsection (6) of that section insert–

“(6A) In this section “earnings” has the meaning given in section 13(3).

(6B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”

(3) In section 5 of the 2008 Act (automatic re-enrolment) for subsection (1) substitute–

“(1) This section applies to a jobholder–

- (a) who is aged at least 22,
- (b) who has not reached pensionable age, and
- (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”

(4) After subsection (7) of that section insert–

“(7A) In this section “earnings” has the meaning given in section 13(3).

(7B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”

6.—(1) In section 3 of the 2008 Act (automatic enrolment) at the end of subsection (7) insert–

“This is subject to section 4.”

Postponement or  
disapplication of  
automatic enrolment

(2) For section 4 of the 2008 Act substitute–

**“Postponement or disapplication of automatic enrolment**

4.—(1) Where–

- (a) an employer (E) gives to a person employed by E on E’s staging date (“the worker”) notice that E intends to defer automatic enrolment for the worker until a date specified in the notice (“the deferral date”), and
- (b) any prescribed requirements in relation to the notice are met, the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(2) Where–

- (a) a person (“the worker”) begins to be employed by an employer (E) after E’s staging date,
- (b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and
- (c) any prescribed requirements in relation to the notice are met, the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(3) Where–

- (a) a person (“the worker”) employed by an employer (E) becomes, after E’s staging date, a jobholder to whom section 3 applies,
- (b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and
- (c) any prescribed requirements in relation to the notice are met, the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(4) Where this subsection applies, section 3(2) does not apply in relation to any employment of the worker by E in the period beginning with the starting day and ending with the deferral date.

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(5) A notice under this section may be given on or before the starting day or within a prescribed period after that day.

(6) The deferral date may be any date in the period of three months after the starting day.

(7) An employer who gives a worker a notice under subsection (1) or (2) may not give the worker a notice under subsection (3) in relation to any occasion on or before the deferral date specified in the notice on which the worker becomes a jobholder to whom section 3 applies.

(8) In this section—  
“staging date”, in relation to an employer of a particular description, means the date prescribed under section 12 in relation to employers of that description;  
“starting day” means—

- (a) E’s staging date, in the case of a notice under subsection (1);
- (b) the day on which the worker begins to be employed by E, in the case of a notice under subsection (2);
- (c) the day on which the worker becomes a jobholder to whom section 3 applies, in the case of a notice under subsection (3).”

(3) In section 5 of the 2008 Act (automatic re-enrolment) omit subsection (5).

(4) In section 6 of the 2008 Act (timing of automatic re-enrolment)—

- (a) omit subsections (3) and (6);
- (b) in subsection (4) for “second case” substitute “first case”;
- (c) in subsection (5) for “third case” substitute “second case”.

(5) In section 7 of the 2008 Act (jobholder’s right to opt in) omit paragraph (b) of subsection (2) and the “or” before it.

(6) In section 30 of the 2008 Act (transitional period for defined benefits and hybrid schemes) in subsection (7)—

- (a) for “applies, section” substitute “applies—  
(a) section”;
- (b) for “day on which” substitute “day with effect from which”;
- (c) at the end insert—

“(b) section 4 applies as if—

- (i) the reference in subsection (1) to the employer’s staging date were a reference to the employer’s first enrolment date;
- (ii) in that subsection, for “the workers’s automatic enrolment date is the deferral date” there were substituted “the day with effect from which arrangements fall to be made by virtue of section 30 in respect of the jobholder is changed to the deferral date”;
- (iii) in subsections (4) to (6), references to the starting day were references to the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”

Timing of automatic re-enrolment

**7.** In section 6 of the 2008 Act (timing of automatic re-enrolment) in subsection (1)(b) for “three years” substitute “2 years and 9 months”.

**8.** ..... amends 2008 (c. 30). See Annex 1, page 5.4053

9. After section 15 of the 2008 Act insert—

**“15A. Power to specify rounded figures**

(1) The Secretary of State may by order specify rounded figures for the purposes of section 3(6B), 5(7B) or 13(2) in the case of pay reference periods of any length specified in the order.

(2) A rounded figure so specified applies in place of the amount that would otherwise apply (“the exact amount”).

(3) The Secretary of State must decide in relation to any particular amount whether to specify—

- (a) a figure that is a whole number of pounds, or
- (b) a figure that is divisible by 10 pence, or
- (c) a figure that includes a whole number of pennies.

(4) It is for the Secretary of State to decide whether to round any particular amount up or down. Accordingly, a figure specified under this section may be the figure within paragraph (a) or (b) or (c) of subsection (3) that is closest to the exact amount or the one that is next closest to it (or, if two figures are joint closest, it may be either of those).”

Rounded figures for earnings trigger and qualifying earnings band

**10.—(1)** Section 16 of the 2008 Act (qualifying schemes) is amended as follows.

Qualifying schemes: administration charges

(2) In subsection (3) for paragraph (a) substitute—

- “(a) administration charges due from J while J is an active member exceed a prescribed amount,*
- (aa) administration charges due from former active members while J is an active member exceed a prescribed amount,*
- (ab) while J is an active member, the scheme contains provision under which administration charges that will be due from J when J is no longer an active member will exceed a prescribed amount, or will do so in particular circumstances,”*

(3) After that subsection insert—

*“(4) For the purposes of subsection (3) administration charges are due from a person to the extent that—*

- (a) any payments made to the scheme by, or on behalf or in respect of, the person,*
- (b) any income or capital gain arising from the investment of such payments, or*
- (c) the value of the person’s rights under the scheme, may be used to defray the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members.*

*(5) In subsection (3)(aa) “former active member” means a person who at some time after the automatic enrolment date was both a jobholder and an active member but is no longer an active member.”*

**11.—(1)** In section 22 of the 2008 Act (test scheme standard) after subsection (7) insert—

*“(8) In the case of a scheme under which a sum of money is made available for the provision of benefits to a relevant member, references in this section to pensions are to be read as references to such sums.”*

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Test scheme standard for schemes that produce sum of money for provision of benefits

(2) For section 23 of the 2008 Act substitute—

**“23. Test scheme**

- (1) A test scheme is an occupational pension scheme which satisfies—
  - (a) the requirement in subsection (2),
  - (b) the requirement in subsection (4) or requirements prescribed under subsection (6) (as appropriate), and
  - (c) any further requirements that are prescribed.
- (2) The scheme must either—
  - (a) provide for a member to be entitled to a pension commencing at the appropriate age and continuing for life, or
  - (b) provide for a sum of money to be made available for the provision of benefits to a member commencing at the appropriate age and continuing for life.
- (3) The appropriate age is 65 or any higher age prescribed.
- (4) In the case of a scheme that provides entitlement to a pension as mentioned in subsection (2)(a), the annual rate of the pension at the appropriate age must be—
  - (a) 1/120th of average qualifying earnings in the last three tax years preceding the end of pensionable service, multiplied by
  - (b) the number of years of pensionable service, up to a maximum of 40.
- (5) Section 13(1) (qualifying earnings) applies for the purposes of subsection (4) as if the reference to a pay reference period were a reference to a tax year.
- (6) In the case of a scheme that provides for a sum of money to be made available as mentioned in subsection (2)(b), regulations must prescribe requirements relating to that sum.”

Certification that alternative to quality requirement is satisfied

**12.—**(1) Section 28 of the 2008 Act (sections 20, 24 and 26: certification that quality requirement is satisfied) is amended as follows.

(2) For the heading substitute **“Certification that quality requirement or alternative requirement is satisfied”**.

(3) In subsection (1) for “any jobholder of an employer” substitute “each of an employer’s relevant jobholders”.

(4) After subsection (1) insert—

“(1A) In this section—

- (a) “relevant jobholder” means a jobholder to whom the certificate in question applies;
- (b) a reference to a scheme includes a reference to part of a scheme.”

(5) In subsection (2)—

- (a) for “state that” substitute “state—
- (a) that”;
- (b) for “the jobholders” substitute “relevant jobholders”;
- (c) at the end insert “, or
- (b) that, in relation to those jobholders, the scheme is in that person's opinion able to satisfy a prescribed alternative requirement throughout the certification period.”

(6) After subsection (2) insert—

“(2A) Alternative requirements must be such that, assuming all jobholders to be active members of schemes to which this section applies, for at least 90% of jobholders—



- (a) employer contributions, and
- (b) total contributions,

would be likely to be no less if every scheme satisfied an alternative requirement applicable to it than if every scheme satisfied the relevant quality requirement.

(2B) In subsection (2A)–

“alternative requirement” means a requirement prescribed under subsection (2)(b);

“employer contributions”, in relation to an active member of a scheme, means the amount of contributions that have to be paid under the scheme in respect of the member by the employer;

“total contributions”, in relation to an active member of a scheme, means the total amount of contributions that have to be paid under the scheme in respect of the member by the employer and by the member.

(2C) The Secretary of State–

- (a) must apply the test in subsection (2A) when regulations under subsection (2)(b) are first made, and
- (b) must carry out subsequent reviews of whether the test continues to be satisfied.

A review under paragraph (b) must be carried out during 2017, and after that each review must be completed no more than three years after the completion of the previous one.”

(7) In subsection (6)–

- (a) in paragraph (e) for “any jobholder” substitute “any relevant jobholder”;
- (b) in paragraph (f) for “jobholders” substitute “relevant jobholders”.

(8) In section 32 of the 2008 Act (power to modify by resolution) in subsection (1)(b) for the words after “the scheme” substitute “to satisfy–

- (i) the requirements contained in section 20(1),
- (ii) those requirements as modified under section 24(1)(a), or
- (iii) a requirement prescribed under section 28(2)(b).”

**13.—(1)** Section 28 of the 2008 Act is amended as follows.

Certification for non-UK schemes

(2) After subsection (3) insert–

“(3A) This section also applies to–

- (a) a money purchase scheme that is an occupational pension scheme within section 18(b);
- (b) a personal pension scheme of a prescribed description for which provision is made under section 27;
- (c) a hybrid scheme that is an occupational pension scheme within section 18(b), to the extent prescribed.”

(3) In subsection (4) at the end insert–

“(d) for a scheme within subsection (3A), means a prescribed requirement.”

(4) In paragraphs (e) and (f) of subsection (6) for “section 26 agreements” substitute “contribution agreements”.

(5) In subsection (8)–

- (a) for ““section 26 agreements” means the agreement” substitute ““contribution agreements” means–
  - (a) the agreement”;
  - (b) at the end insert “, or

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- (b) any agreement of the same or a similar kind that is required, in the case of a scheme within subsection (3A)(b), by regulations under section 27.”

Transitional period for defined benefits and hybrid schemes to be optional

**14.**—(1) Section 30 of the 2008 Act (transitional period for defined benefits and hybrid schemes) is amended as follows.

(2) In subsection (3) for “Where this subsection applies” substitute “If by the end of the prescribed period the employer has given the jobholder notice that the employer intends to defer automatic enrolment until the end of the transitional period for defined benefits and hybrid schemes”.

(3) In subsection (4) for “at any time” substitute “a notice is given under subsection (3) and at any later time”.

(4) After subsection (7) insert—

“(7A) The Secretary of State may by regulations make provision about the form and content of a notice under subsection (3).”

Arrangements where transitional conditions cease to be satisfied

**15.**—(1) Section 30 of the 2008 Act is amended as follows.

(2) In subsection (5) after “money purchase scheme” insert “or personal pension scheme”.

(3) In subsection (6)(b) omit “(in accordance with section 20(1))”.

Power of managers to modify by resolution

**16.** In section 32 of the 2008 Act (power of trustees to modify by resolution) in subsection (1) and in the heading after “trustees” insert “or managers”.

No indemnification for civil penalties

**17.** In section 256 of the Pensions Act 2004 (no indemnification for fines or civil penalties) in subsection (1)(b)—

(a) for “or section” substitute “, section”;

(b) after “1993 (c. 48)” insert “or section 40 or 41 of the Pensions Act 2008”.

**18.** [...<sup>1</sup>]

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<sup>1</sup> S. 18 repealed (11.09.14) by the Pensions Act 2014, s. 38(3)(c).

**PART 3**  
**OCCUPATIONAL PENSION SCHEMES**

*Indexation and revaluation*

- 19.—(1)-(6)** ..... amends 1993 (c. 48). See Annex 1, page 5.4053
- (7)-(8)** ..... amends 1995 (c. 26). See Annex 1, page 5.4053
- (9)-(11)** ..... amends 1999 (c. 30). See Annex 1, page 5.4053
- 20.** ..... amends 2004 (c. 35). See Annex 1, page 5.4053
- 21.** ..... amends 1995 (c. 26). See Annex 1, page 5.4053

*Pension Protection Fund*

- 22.** Schedule 4 (which makes provision relating to the Pension Protection Fund) has effect. Pension Protection Fund

*Miscellaneous*

- 23-26.** ..... amends 2004 (c. 35). See Annex 1, page 5.4053
- 27.** ..... amends 2007 (c. 22). See Annex 1, page 5.4053
- 28.** ..... amends 1993 (c. 48). See Annex 1, page 5.4053

**PART 4**  
**MONEY PURCHASE BENEFITS**

- 29.—(1)** In section 181 of the Pension Schemes Act 1993 (interpretation), in the definition of “money purchase benefits” in subsection (1), for “which are not average salary benefits” substitute “which fall within section 181B”. Definition of money purchase benefits

(2) After section 181A of that Act insert—

**“181B. Money purchase benefits: supplementary**

(1) This section applies for the purposes of the definition of “money purchase benefits” in section 181(1).

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

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(5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."

(3) In section 99 of the Pensions Act 2008 (interpretation) in the definition of "money purchase benefits" for "which are not average salary benefits" substitute "which fall within section 99A".

(4) After that section insert—

**"99A. Money purchase benefits: supplementary**

(1) This section applies for the purposes of the definition of "money purchase benefits" in section 99.

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."

(5) In paragraph 1(2) of Schedule 10A to the Building Societies Act 1986 (disclosures about directors etc), in the definition of "money purchase benefits", for "which are not average salary benefits" substitute "which fall within paragraph 1A".

(6) In that Schedule, after paragraph 1 insert—

**"1A.—(1) This paragraph applies for the purposes of the definition of "money purchase benefits" in paragraph 1(2).**

(2) A benefit other than a pension in payment falls within this paragraph if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the director.

(3) A benefit which is a pension in payment falls within this paragraph if—

- (a) its provision to or in respect of the director is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this paragraph by virtue of subparagraph (2).

(4) For the purposes of sub-paragraph (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this paragraph references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."

(7) The amendments made by subsections (1) and (2) are to be regarded as having come into force on 1 January 1997.

(8) The amendments made by subsections (3) and (4) are to be regarded as having come into force at the same time as section 99 of the Pensions Act 2008.

**30.**—(1) The Secretary of State may by regulations make transitional provision in relation to the coming into force of the amendments in section 29. Transitional

(2) That provision includes in particular—

- (a) provision disapplying the amendments in section 29 in relation to an occupational or personal pension scheme which is wound up before the coming into force of that section;
- (b) provision disapplying the amendments in section 29 to any extent, or as regards any period, in respect of an occupational or personal pension scheme in relation to which those amendments would otherwise have applied on the coming into force of that section;
- (c) provision modifying the application of an enactment in respect of an occupational or personal pension scheme in relation to which the amendments in section 29 apply on the coming into force of that section;
- (d) provision requiring trustees or managers of an occupational pension scheme in relation to which the amendments in section 29 apply on the coming into force of that section to obtain an actuarial valuation of a description specified in the regulations.

(3) In subsection (2) “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act 1993.

**31.**—(1) The Secretary of State may by regulations make consequential or supplementary provision in relation to the amendments made by section 29. Consequential and supplementary

(2) In section 307 of the Pensions Act 2004 (modification of Act) in subsection (2) after paragraph (b) insert—

“(ba) Part 3 (scheme funding),”.

**32.**—(1) The Secretary of State may by regulations amend for any purpose the definition of “money purchase benefit” in the Pension Schemes Act 1993, the Pensions Act 2008 or Schedule 10A to the Building Societies Act 1986. Power to make further provision

(2) Regulations under subsection (1) may in particular amend the provisions inserted by section 29 above.

(3) Regulations under this section may include transitional, consequential or supplementary provision.

**33.**—(1) Regulations under this Part may—

- (a) make different provision for different cases (including different provision for pension schemes of different descriptions);
- (b) provide for a person to exercise a discretion in dealing with any matter;
- (c) amend Acts (as well as other enactments);
- (d) have retrospective effect.

(2) Regulations under this Part must be made by statutory instrument. Regulations

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(3) A statutory instrument containing regulations under this Part which amend an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

(4) A statutory instrument containing any other regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

**PART 5  
JUDICIAL PENSIONS**

**34.** ..... outside the scope of this work. See Annex 1, page 5.4053

**PART 6  
MISCELLANEOUS AND GENERAL**

*Miscellaneous*

**35.** ..... amends 1993 (c. 48). See Annex 1, page 5.4053

Service of documents  
and electronic working

**36.—(1)** After section 144 of the Pensions Act 2008 insert—  
**“144A. Service of documents and electronic working**

In sections 303 to 305 of the Pensions Act 2004 (service of documents and electronic working) references to that Act are to be treated as including references to the following provisions of this Act—

- Chapters 2 and 3 of Part 1;
- section 60(1)(c);
- Chapter 1 of Part 3.”

(2) In section 60 of that Act (requirement to keep records) in subsection (1)(c) for “, on request, to the Regulator” substitute “to the Regulator on receiving a notification requesting them”.

(3) In section 150 of that Act (extent) in subsection (2)(f) for “143 to 146” substitute “143, 144, 145 and 146”.

*General*

*Extent*

**37.** *An amendment or repeal by this Act has the same extent as the enactment amended or repealed.*

*Commencement*

**38.—(1)** Any provision of Part 2 that amends another Act so as—  
(a) to modify a power to make an order or regulations, or  
(b) to confer any such power,

comes into force, for the purposes of the exercise of the power, on the day on which this Act is passed.

- (2) The following provisions of this Act come into force on that day—
- (a) sections 30 to 33;
  - (b) section 37;
  - (c) this section;
  - (d) section 39.

(3) The following provisions of this Act come into force at the end of the period of 2 months beginning with that day—

- (a) section 1 (and Schedule 1);
- (b) section 25;
- (c) section 27;
- (d) section 28.

(4) The other provisions of this Act come into force in accordance with provision made by order by the Secretary of State.

(5) An order under subsection (4) may appoint different days for different purposes.

(6) The Secretary of State may by order make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

(7) An order under subsection (4) or (6) is to be made by statutory instrument.

**39.** This Act may be cited as the Pensions Act 2011.

Short title

## SCHEDULES

Section 1

### SCHEDULE 1

#### EQUALISATION OF AND INCREASE IN PENSIONABLE AGE FOR MEN AND WOMEN: CONSEQUENTIAL AMENDMENTS

- 1.** ..... outside the scope of this work, see Annex 1, page 5.4053
- 2.-5.** ..... amends 1992 (c. 5), see Annex 1, page 5.4053
- 6.** ..... amends 1995 (c. 26), see Annex 1, page 5.4053
- 7.** ..... outside the scope of this work, see Annex 1, page 5.4053
- 8.-10.** ..... amends 2007 (c. 22), see Annex 1, page 5.4053

Section 2

### SCHEDULE 2

#### ABOLITION OF CERTAIN ADDITIONS TO THE STATE PENSION: CONSEQUENTIAL AMENDMENTS ETC

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

- 1. The Social Security Contributions and Benefits Act 1992 is amended as follows.
  - 2. In section 55 (pension increase or lump sum where entitlement to retirement pension is deferred) in subsection (2) for "paragraphs 4 to 7 make" substitute "paragraph 4 makes".
  - 3.—(1) Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.
    - (2) Omit paragraph A1(4).
    - (3) In paragraph 2(5)(a) omit "5, 5A, 6 or 6A".
    - (4) Omit paragraph 2A.
    - (5) In paragraph 3B(5)(b)(i) omit "or paragraphs 5 to 6A of this Schedule".
    - (6) Omit paragraph 3C(5).
  - (7)-(8) ..... amends 1992 (c. 4), see Annex 1, page 5.4053

##### *Repeals of spent enactments*

- 4. The following provisions are repealed—
  - (a) paragraph 40 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994;
  - (b) paragraph 21(15) and (16) of Schedule 4 to the Pensions Act 1995;
  - (c) paragraph 7 of Schedule 11 to the Pensions Act 2004;
  - (d) paragraph 20 of Schedule 1 to the Pensions Act 2007.

[...<sup>1</sup>]

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<sup>1</sup> Sch. 3 repealed (1.10.14) by the Pensions Act 2014, Sch. 12, para. 97(b).



## SCHEDULE 4

Section 22

## PENSION PROTECTION FUND

*Requirements to obtain actuarial valuations*

1. The Pensions Act 2004 is amended as follows.
2. In section 58(3) (right to apply under section 423 of the Insolvency Act 1986)—
  - (a) for the words from “an actuarial” to the first “scheme” substitute “a determination made, or actuarial valuation obtained, in respect of the scheme by the Board of the Pension Protection Fund under section 143(2)”, and
  - (b) for “that section” substitute “section 143”.
- 3.—(1) Section 141 (effect of review of ill-health pension) is amended as follows.
  - (2) In subsection (4) after “which” insert “a determination under section 143(2)(a) or”.
  - (3) In subsection (5)(a) after “first” insert “makes a determination under section 143(2)(a) or”.
4. In section 142(1) (interpretation) in the definition of “scheme valuation” for “143” substitute “143(2)(b)”.
- 5.—(1) Section 143 (Board’s obligation to obtain valuation of assets and protected liabilities) is amended as follows.
  - (2) For subsection (2) substitute—
    - “(2) The Board must, as soon as reasonably practicable—
      - (a) determine whether the condition in subsection (2)(a) of the section in question is satisfied, or
      - (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation of the scheme as at the relevant time.
    - (2A) Before doing so, it must give a notice stating whether it will make a determination under subsection (2)(a) or obtain an actuarial valuation under subsection (2)(b) to—
      - (a) the trustees or managers of the scheme, and
      - (b) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.”
  - (3) In subsection (3) for “those purposes” substitute “the purposes of this section”.
  - (4) In subsection (4) for “this section” substitute “a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b)”.
  - (5) In subsection (5B) for “mentioned in subsection (2)” substitute “of this section”.
  - (6) After subsection (5B) insert—
    - “(5C) The Board must issue a statement setting out how (subject to any provision made under subsection (4)) it will make determinations under subsection (2)(a).”
  - (7) In subsection (6)—
    - (a) after “subsection (4),” insert “for the purposes of an actuarial valuation obtained under subsection (2)(b)”, and

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(b) for “paragraphs (a) and (b) of that subsection” substitute “subsection (4)(a) and (b)”.

(8) In subsection (9)–

(a) for “requires the” substitute “requires a determination to be made, or an”, and

(b) after “purposes of” insert “the determination or”.

(9) In subsection (10) for “requires the” substitute “requires a determination to be made, or an”.

(10) In subsection (11)(b)(ii) after “first” insert “makes a determination under subsection (2)(a) or”.

6. After section 143 insert–

**“143A Determinations under section 143**

(1) Where the Board makes a determination under section 143(2)(a) it must give a copy of the determination to–

(a) the Regulator,

(b) the trustees or managers of the scheme, and

(c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(2) For the purposes of this Chapter a determination under section 143(2)(a) is not binding until–

(a) the period within which the determination may be reviewed by virtue of Chapter 6 has expired, and

(b) if the determination is so reviewed–

(i) the review and any reconsideration,

(ii) any reference to the PPF Ombudsman in respect of the determination, and

(iii) any appeal against the PPF Ombudsman’s determination or directions, has been finally disposed of.

(3) For the purposes of determining whether or not the condition in section 127(2)(a) or, as the case may be, section 128(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under section 143(2)(a) is conclusive.

This subsection is subject to section 172(3) and (4) (treatment of fraud compensation payments).

(4) Where a determination under section 143(2)(a) becomes binding under this section the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding determination to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and
- (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(5) A notice under subsection (4) must be in the prescribed form and contain the prescribed information.”

7.—(1) Section 144 (approval of valuation) is amended as follows.

(2) In subsection (1) for “143” substitute “143(2)(b)”.

(3) In subsection (2) for “that section” substitute “section 143”.

8. In section 145(1) (binding valuations) for “143” substitute “143(2)(b)”.

9.—(1) Section 151 (application for Board to assume responsibility for schemes) is amended as follows.

(2) In subsections (2)(b) and (3)(b) for the words from “the valuation” to “scheme” substitute “the determination made by the Board or valuation obtained by the Board in respect of the scheme under section 143(2)”.

(3) In subsection (6)—

- (a) in paragraphs (a)(ii) and (b)(ii) after “binding” insert “determination or”, and
- (b) in paragraph (a)(ii) for “section” substitute “subsection”.

(4) In subsection (10) for “under that section” substitute “under section 143(2)(b)”.

10. In section 154(5)(b) (requirement to wind up scheme) after “that the” insert “determination made by the Board or”.

11.—(1) Section 158 (Board’s duty to assume responsibility for closed schemes) is amended as follows.

(2) For subsection (3) substitute—

“(3) The Board must, as soon as reasonably practicable—

- (a) determine whether the condition in subsection (1) is satisfied, or
- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of section 143) of the scheme as at the relevant time.

(3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under subsection (3)(a) or obtain an actuarial valuation under subsection (3)(b).”

(3) In subsection (4) for “those purposes as it applies for the purposes mentioned in subsection (2)” substitute “the purposes of this section as it applies for the purposes”.

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- (4) In subsection (5)–
- (a) for “a valuation obtained under subsection (3)” substitute “a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b)”,
  - (b) for “a valuation obtained under section 143” substitute “a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b)”, and
  - (c) after paragraph (a) insert–
    - “(aa) section 143A (determinations under section 143), other than subsections (1)(c) and (4)(c) (duty to give copy of determinations to employer’s insolvency practitioner);”.
- (5) In subsection (6)–
- (a) after “sections 143” insert “, 143A”,
  - (b) omit “and” at the end of paragraph (a), and
  - (c) after that paragraph insert–
    - “(aa) subsection (3) of section 143A applies as if the reference to section 128(2)(a) included a reference to subsection (1) of this section, and”.

12.—(1) Section 160 (transfer notice) is amended as follows.

(2) In subsection (3) for “valuation obtained under section 143” substitute “determination made or valuation obtained under section 143(2)”.

(3) In subsection (4) after “until the” insert “determination made or”.

13.—(1) Schedule 9 (reviewable matters) is amended as follows.

(2) For paragraph 8 substitute–

“7B. A notice under section 143(2A) (whether Board will make a determination or obtain an actuarial valuation).

7C. The failure by the Board either to–

- (a) make a determination under section 143(2)(a), or
- (b) obtain an actuarial valuation under section 143(2)(b).

7D. A determination by the Board under section 143(2)(a) (whether condition in section 127(2)(a) or 128(2)(a) satisfied).”

(3) After paragraph 14 insert–

“14A. A notice under section 158(3A) (whether Board will make a determination or obtain an actuarial valuation).

14B. The failure by the Board either to–

- (a) make a determination under section 158(3)(a), or
- (b) obtain an actuarial valuation under section 158(3)(b).

14C. A determination by the Board under section 158(3)(a) (whether condition in section 158(1) satisfied).”

#### *Requirement to obtain protected benefits quotation*

14. In section 151(4)(a) of the Pensions Act 2004 (application for Board to assume responsibility for scheme) after “form,” insert “or evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so,”.

15. (1) Section 152 of the Pensions Act 2004 (Board's duty to assume responsibility for scheme) is amended as follows.

(2) After subsection (1) insert–

“(1A) Subsection (2) applies where the application is accompanied by a protected benefits quotation.”

(3) After subsection (2) insert–

“(2A) Subsection (2B) applies where–

- (a) the application is accompanied by evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and
- (b) the Board is satisfied that that is the case.

(2B) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the amount of the protected liabilities at that time.”

(4) In subsection (3)–

- (a) after “subsection (2)” insert “or (2B)”, and
- (b) for “a determination notice” substitute “a notice to that effect (a “determination notice”)”.

(5) Omit subsection (4).

(6) In subsection (5)–

- (a) after “in subsection (2)” insert “or (2B)”, and
- (b) for “under subsection (2)” substitute “under that subsection”.

(7) Omit subsection (8).

(8) In subsection (10) for “Regulations” substitute “Where subsection (2) applies, regulations”.

(9) After subsection (10) insert–

“(10A) The Board may, for the purposes of subsection (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of the scheme as at the reconsideration time (within the meaning of section 151).

(10B) A valuation under subsection (10A) must be prepared in accordance with such requirements as may be prescribed.

(10C) Section 143(3) to (6) applies in relation to a determination under subsection (2B) and a valuation under subsection (10A) as it applies in relation to a determination under section 143(2)(a) and an actuarial valuation obtained under section 143(2)(b).

(10D) In the application of section 143 by virtue of subsection (10C)–

- (a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of section 151), and
- (b) references to the pre-approval period are to be read as references to the period which begins immediately after the reconsideration time, and ends immediately before the Board first issues a determination notice under this section.”

16. In the following provisions of the Pensions Act 2004 after “152(2)” insert “or (2B)”–

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- (a) section 154(2)(c) (requirement to wind up certain schemes), and
- (b) section 172(4) and (5)(c) (fraud compensation regime).

*Removal of restriction on transfer notices*

17.-19. .... amends 2004 (c. 35). See Annex 1, page 5.4053

20. .... amends 2008 (c. 30). See Annex 1, page 5.4053

*Postponement of compensation*

21. Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.

22. For paragraph 25A (deferral of compensation) and the heading before it substitute—

*“Postponement of compensation*

25A.—(1) Regulations may prescribe circumstances in which, and conditions subject to which—

- (a) a person who becomes entitled to periodic compensation under paragraph 5, 8, 11 or 15 may elect to postpone the commencement of periodic compensation under that paragraph, and
- (b) a person who becomes entitled to lump sum compensation under paragraph 7, 10, 14 or 19 may elect to postpone the payment of lump sum compensation under that paragraph.

(2) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 ceases to be postponed, the Board must determine—

- (a) the amount mentioned in sub-paragraph (3)(a) of that paragraph, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and
- (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(3) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to periodic compensation, are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).

(4) Where the payment of lump sum compensation under paragraph 7, 10, 14 or 19 ceases to be postponed, the Board must determine—

- (a) the relevant amount, as at the time the lump sum compensation would have been payable if its payment had not been postponed, and
- (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(5) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to lump sum compensation, are to the difference between the amounts in sub-paragraphs (4)(a) and (4)(b).

(6) In sub-paragraph (4) the “relevant amount” means (as appropriate)—

- (a) the amount mentioned in paragraph 7(2)(a),
- (b) the aggregate of the amounts mentioned in paragraph 10(2)(a) and (b),
- (c) the amount mentioned in paragraph 14(3)(a), or
- (d) the amount mentioned in paragraph 19(3)(a).”

23.—(1) In paragraph 5(3) (periodic compensation for postponed pensioner at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—
  - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(2) In paragraph 7(2) (lump sum compensation for postponed pensioner at assessment date) for the words from “the amount” to the end substitute “the aggregate of—

- (a) the amount of the scheme lump sum which would have been payable had the postponement ceased immediately before the assessment date, and
- (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”

(3) In paragraph 8(3) (periodic compensation for active member over pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—
  - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(4) In paragraph 10(2) (lump sum compensation for active member over pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after paragraph (b) insert “, and
- (c) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”

(5) In paragraph 11(3) (periodic compensation for active member under pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—
  - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(6) In paragraph 14(3) (lump sum compensation for active member under pension age at assessment date) for “the protected amount” substitute “the aggregate of—

- (a) the protected amount, and
- (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”

(7) In paragraph 15(3) (periodic compensation for deferred member under pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—
  - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

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- (8) In paragraph 19(3) (lump sum compensation for deferred member under pension age at assessment date) for “the protected amount” substitute “the aggregate of–
- (a) the protected amount, and
  - (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”
- (9) In paragraph 26 (compensation cap)–
- (a) in sub-paragraphs (3)(c) and (6)(e) for “14(3)” substitute “14(3)(a)”, and
  - (b) in sub-paragraphs (3)(e) and (6)(g) for “19(3)” substitute “19(3)(a)”.
- 24.—(1) In paragraph 6 (periodic compensation for widow or widower of postponed pensioner at assessment date)–
- (a) in sub-paragraph (3) after “including” insert “any actuarial increase under paragraph 25A and”, and
  - (b) after sub-paragraph (3) insert–  
“(3A) If, on the day the postponed pensioner (“P”) died–  
commencement of P’s periodic compensation under paragraph 5 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of P’s death.”
- (2) In paragraph 9 (periodic compensation for widow or widower of active member over pension age at assessment date)–
- (a) in sub-paragraph (3) after “including” insert “any actuarial increase under paragraph 25A and”, and
  - (b) after sub-paragraph (3) insert–  
“(3A) If, on the day the active member (“A”) died, commencement of A’s periodic compensation under paragraph 8 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of A’s death.”
- (3) In paragraph 13 (periodic compensation for widow or widower of active member under pension age at assessment date)–
- (a) in sub-paragraph (3)(a) after “including” insert “any actuarial increase under paragraph 25A and”,
  - (b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert–  
“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).”, and
  - (c) after sub-paragraph (3) insert–  
“(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the active member (“A”) died commencement of A’s periodic compensation under paragraph 11 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of A’s death.”
- (4) In paragraph 18 (periodic compensation for widow or widower of deferred member under pension age at assessment date)–
- (a) in sub-paragraph (3)(a) after “including” insert “any actuarial increase under paragraph 25A and”,
  - (b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert–  
“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).”, and
  - (c) after sub-paragraph (3) insert–



“(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the deferred member (“D”) died commencement of D’s periodic compensation under paragraph 15 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of D’s death.”

25. In paragraph 24(1) (commutation of periodic compensation) for “becomes payable” substitute “commences”.

26.—(1) In paragraph 25B (eligibility for terminal illness lump sum)—

- (a) in sub-paragraph (4) in the definition of “relevant age”—
  - (i) in paragraph (a) omit “or deferred” and “or (as the case may be) 25A”, and
  - (ii) in paragraph (b) omit “or deferred”, and
- (b) after sub-paragraph (4) insert—
  - “(5) Sub-paragraph (6) applies where—
    - (a) the commencement of a person’s periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or
    - (b) the payment of a person’s lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph.
  - (6) This paragraph applies as if—
    - (a) the person first becomes entitled to compensation under the paragraph in question immediately after the period of postponement ends, and
    - (b) in sub-paragraph (1)(b), for “if the person lived to the relevant age, the person would become entitled on attaining that age” there were substituted “if the period of postponement ended, the person would become entitled”.

(2) In paragraph 25E (effect of successful application for terminal illness lump sum) after sub-paragraph (6) insert—

- “(7) Where on the granting of the application—
  - (a) the commencement of a person’s periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or
  - (b) the payment of a person’s lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph, this paragraph applies as if the references to the person attaining the relevant age were references to the period of postponement ending.”

27.—(1) Paragraph 28 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (3)—

- (a) in the definition of “underlying rate” for “any of the paragraphs mentioned in sub-paragraph (1)” substitute “paragraph 3 or 22”, and (b) after that definition insert—
  - ““underlying rate” means, in the case of periodic compensation under paragraph 5, 8, 11 or 15, the aggregate of—
    - (a) so much of the amount mentioned in subparagraph (3)(a) of the paragraph in question as is attributable to post-1997 service,
    - (b) so much of the amount mentioned in subparagraph (3)(aa) of the paragraph in question as is attributable to post-1997 service, and
    - (c) the amount within sub-paragraph (3)(b) of that paragraph immediately before the indexation date.”

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(3) In sub-paragraph (5)–

- (a) in paragraph (a) for the second “the” substitute “each”,
- (b) omit the “and” at the end of that paragraph, and
- (c) after paragraph (b) insert–

“(c) for the purposes of sub-paragraph (2), the definition of “underlying rate” in the case of periodic compensation under paragraph 5, 8, 11 or 15 applies as if the reference in paragraph (b) of the definition to the amount mentioned in subparagraph (3)(aa) of the paragraph in question was a reference to that amount reduced by the commutation percentage, and

- (d) that amount (as so reduced) is attributable to post-1997 service and pre-1997 service in the same proportions as that amount would have been so attributable had no part of the periodic compensation been commuted.”

(4) After sub-paragraph (5) insert–

“(5A) The amount mentioned in sub-paragraph (3)(aa) of paragraph 5, 8, 11 or 15 is attributable–

- (a) to post-1997 service, in so far as it relates to so much of the amount mentioned in sub-paragraph (3)(a) of the paragraph in question as is attributable to post-1997 service, and
- (b) to pre-1997 service, in so far as it relates to so much of that amount as is attributable to pre-1997 service.

(5B) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 has been postponed by virtue of paragraph 25A, this paragraph applies as if the person first becomes entitled to periodic compensation under the paragraph in question on the day on which the periodic compensation commences.”

28.—(1) In paragraph 29 (Board’s powers to alter rates of revaluation and indexation) after sub-paragraph (6) insert–

“(6A) A determination under sub-paragraph (2) which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of periodic compensation to a person is postponed by virtue of paragraph 25A, the determination applies as if the person first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”

(2) In paragraph 30 (Secretary of State’s powers to vary percentage paid as compensation) after sub-paragraph (6) insert–

“(6A) An order under this paragraph which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of compensation to a person is postponed by virtue of paragraph 25A, the order applies as if the person first becomes entitled to the compensation immediately after the period of postponement ends.”

*Pension compensation sharing: postponement of compensation*

29. Schedule 5 to the Pensions Act 2008 (pension compensation payable on discharge of pension compensation credit) is amended as follows.

30.—(1) Omit paragraph 11 (deferral of compensation).

(2) In Part 4 after the Part heading insert–

*“Postponement of compensation*

16A.—(1) Regulations may prescribe circumstances in which, and conditions subject to which, a person who becomes entitled to periodic compensation under paragraph 4 or 6 may elect to postpone the commencement of periodic compensation under that paragraph.

(2) Where the commencement of periodic compensation under paragraph 4 or 6 ceases to be postponed, the Board must determine—

- (a) the relevant amount, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and
- (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(3) References in this Schedule to the amount of an actuarial increase under this paragraph are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).

(4) In sub-paragraph (2) the “relevant amount” means (as appropriate)—

- (a) the amount mentioned in paragraph 4(3)(a), or
- (b) the aggregate of the amounts mentioned in paragraph 6(3)(a) and (b).”

31.—(1) In paragraph 4(3) (periodic compensation for transferee over pension compensation age on transfer day)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and”.

(2) In paragraph 4(4) (provisions to which paragraph 4 is subject) after “subject to” insert “paragraph 16A (postponement of compensation) and”.

(3) In paragraph 6(3) (periodic compensation for transferee under pension compensation age on transfer day)—

- (a) omit “and” at the end of paragraph (b), and
- (b) after that paragraph insert—

“(ba) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and”.

(4) In paragraph 6(4) (provisions to which paragraph 6 is subject)—

- (a) omit the entry for paragraph 11,
- (b) omit “and” at the end of the entry for paragraph 15, and
- (c) after that entry insert—  
“paragraph 16A (postponement of compensation), and”.

32.—(1) In paragraph 5 (periodic compensation for widow etc of transferee over pension compensation age on transfer day)—

- (a) in sub-paragraph (3) after “(including” insert “any actuarial increase under paragraph 16A and”, and
- (b) after sub-paragraph (3) insert—

“(3A) If, on the day the transferee (“T”) died, commencement of T’s periodic compensation under paragraph 4 was postponed by virtue of paragraph 16A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of T’s death.”

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(2) In paragraph 7 (periodic compensation for widow etc of transferee under pension compensation age on transfer day)–

- (a) in sub-paragraph (3)(a) after “(see paragraph 8)” insert “, any actuarial increase under paragraph 16A”,
- (b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert–  
“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 16A).”, and
- (c) after sub-paragraph (3) insert–  
“(3A) For the purposes of sub-paragraph (3)(a), if on the day the transferee (“T”) died commencement of T’s periodic compensation under paragraph 6 was postponed by virtue of paragraph 16A, assume that the periodic compensation commenced immediately before the date of T’s death.”

33. In paragraph 9(1) (commutation of periodic compensation) for “becomes payable” substitute “commences”.

34.—(1) In paragraph 12 (eligibility for terminal illness lump sum)–

- (a) in sub-paragraph (4) in the definition of “relevant age”–
  - (i) in paragraph (a) omit “or deferred” and “or (as the case may be) 11”, and
  - (ii) in paragraph (b) omit “or deferred”, and
- (b) after sub-paragraph (4) insert–  
“(5) Sub-paragraph (6) applies where the commencement of a person’s periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A.
- (6) This paragraph applies as if–
  - (a) the person first becomes entitled to compensation under paragraph 6 immediately after the period of postponement ends, and
  - (b) in sub-paragraph (1)(b), for “if the transferee lived to the relevant age, he or she would become entitled on attaining that age” there were substituted “if the period of postponement ended, the transferee would become entitled”.

(2) In paragraph 15 (effect of successful application for terminal illness lump sum) after sub-paragraph (3) insert–

“(4) Where on the granting of the application the commencement of a person’s periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A, this paragraph applies as if the references to the transferee attaining the relevant age were references to the period of postponement ending.”

3.—(1) Paragraph 17 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (4) in the definition of “the underlying rate”–

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert–  
“(aa) so much of any actuarial increase under paragraph 16A as relates to the amount in paragraph (a), and”.

(3) In sub-paragraph (7)–

- (a) after “references in” insert “paragraph (a) of”, and
- (b) at the end insert “(and paragraph (aa) of the definition applies accordingly).”

(4) After sub-paragraph (7) insert–

“(7A) Where the commencement of periodic compensation has been postponed by virtue of paragraph 16A, this paragraph applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”

36. In paragraph 20 (Board's power to alter rates of revaluation and indexation) after sub-paragraph (5) insert—

“(5A) A determination under sub-paragraph (1)(b) which has effect as mentioned in sub-paragraph (5)(b)(ii) may provide that, where the payment of periodic compensation to the transferee is postponed by virtue of paragraph 16A, the determination applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”

*Calculation of compensation: admissible rules etc*

37. .... amends 2004 (c. 35). See Annex 1, page 5.4053

(3A) *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 any recent discretionary increases is that those liabilities are greater than they otherwise would be.; and*  
(b) *in sub-paragraph (4) for “sub-paragraph (3)” substitute “subparagraphs (3) and (3A).”*

SCHEDULE 5

Section 34

CONTRIBUTIONSTOWARDS COST OF JUDICIAL PENSIONS ETC

PART 1

CONTRIBUTIONSTOWARDS COST OF JUDICIAL PENSIONS

*District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960*  
*(c. 2 (N.I.))*

*Sch. 5 amends work outside the scope of these volumes. See Annex 1, page 5.4053*

*PART 2*

*MINOR AMENDMENTS RELATING TO JUDICIAL PENSIONS*

*Sheriffs' Pensions (Scotland) Act 1961 (c. 42)*

4. *In section 9A of the Sheriffs' Pensions (Scotland) Act 1961 (appeals) after subsection (4) insert–*

*“(4A) Regulations under subsection (3) are to be made by statutory instrument.*

*(4B) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.”*

*Judicial Pensions Act 1981 (c. 20)*

5. *In section 32A of the Judicial Pensions Act 1981 (appeals) after subsection (5) insert–*

*“(5A) Regulations under subsection (4) are to be made by statutory instrument.*

*(5B) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”*

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## LIST OF OMISSIONS

The following Provisions have been omitted from the text for the reasons stated below:-

- s. 1 ... .. amends Schedule 4 to the Pensions Act 1995 (c. 26)
- s. 2 ... .. amends section 150 of the Social Security Administration Act 1992 (c. 5) (6.4.12)
- s. 8 ... .. amends section 14 of the Pensions Act 2008 (c. 30) (3.1.12)
- s. 19 (1)-(6)... amends section 84 of the Pension Schemes Act 1993 (c. 48) (3.1.12)
- s. (7)-(8) ... amends section 51 of the Pensions Act 1995 (c. 26) (3.1.12)
- s. (9)-(11) ... amends section 40 of the Welfare Reform Act 1999 (c. 30) (3.1.12)
- s. 20 ... .. amends Schedule 7 to the Pensions Act 2004 (c. 25) (1.1.12)
- s. 21 ... .. amends section 51 of the Pensions Act 1995 (c. 26) (1.1.12)
- s. 23-24 ... amends section 286 of the Pensions Act 2004 (c. 25) (3.1.12)
- s. 25 ... .. amends section 251 of the Pensions Act 2004 (c. 25)
- s. 26 ... .. amends section 38 of the Pensions Act 2004 (c. 25) (3.1.12)
- s. 27 ... .. amends Schedule 4 to the Pensions Act 2007 (c. 22)
- s. 28 ... .. amends section 42(6) of the Pension Scheme Act 1993 (c. 48)
- s. 34 ... .. amends legislation not reproduced in these volumes
- s. 35 ... .. amends section 174 of the Pensions Schemes Act 1993 (c. 48) (3.1.12)
- Sch 1,
- para. 1 amends legislation not reproduced in these volumes
- paras. 2 - 5 amends sections 2A, 2AA, and 2D of the Social Security Admin Act 1992 (c. 5)
- para. 6 amends section 126 of the Pensions Act 1995 (c. 26)
- para. 7 amends legislation not reproduced in these volumes

## **PENSIONS ACT 2011 (c. 19)**

### **Annex 1**

- paras. 8 - 10* amends sections 13 and Schedule 3 to the Pensions Act 2007 (c. 22)
- Sch. 2
  - paras. 3(7) - 8* amends Schedule 5 to the Contributions and Benefits Act 1992 (c. 4) (6.4.12)
- Sch. 4
  - paras. 17-19* make various amendments to the Pensions Act 2004 (c. 35) (6.4.12)
  - paras. 20* amends Schedule 8 to the Pensions Act 2008 (c. 30) (6.4.12)
  - paras. 37* amends Schedule 7 to the Pensions Act 2004 (c. 35) (3.1.12)
- Sch. 5 ... amends legislation not reproduced within these volumes.



# *Pensions Act 2011*

## *Commencement Dates*

*(a) List of Commencement Orders*

<i>S.I. no</i>	<i>Title of Order</i>	<i>page no. if reproduced in these volumes</i>
2011/3034	The Pensions Act 2011 (Commencement No. 1) Order 2011	5.4867

*(b) Dates on which provisions of the Pensions Act 2011 come into force.  
[Note: in the list below only those sections commenced will be included.]*

<i>Section (etc.) of the Pensions Act 2002</i>	<i>Date of commencement</i>	<i>Commencing Authority</i>
<i>Section 1</i>	<i>3rd January 2012</i>	<i>Royal Assent</i>
<i>Section 2 (partially)</i>	<i>6th April 2012</i>	<i>2011/3034</i>
<i>Section 8</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Section 19</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Section 20</i>	<i>1st January 2012</i>	<i>2011/3034</i>
<i>Section 21</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Section 22 (partially)</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Section 23 and 24</i>	<i>3rd January 2012</i>	<i>2011/3034</i>

**PENSIONS ACT 2011 (c. 19)**

**Annex 2**

<i>Section 25</i>	<i>3rd January 2012</i>	<i>Royal Assent</i>
<i>Section 26</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Sections 27 - 28</i>	<i>3rd January 2012</i>	<i>Royal Assent</i>
<i>Sections 30 - 33</i>	<i>3rd November 2011</i>	<i>Royal Assent</i>
<i>Section 34</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Section 35</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Section 38 - 39</i>	<i>3rd November 2011</i>	<i>Royal Assent</i>
<i>Schedule 1</i>	<i>3rd January 2012</i>	<i>Royal Assent</i>
<i>Schedule 2 (partially)</i>	<i>6th April 2012</i>	<i>2011/3034</i>
<i>Schedule 4 (partially)</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Schedule 5</i>	<i>3rd January 2012</i>	<i>2011/3034</i>
<i>Schedule 9</i>	<i>6th March 2012</i>	<i>2012/682</i>
<i>Schedule 12-13</i>	<i>6th March 2012</i>	<i>2012/682</i>