

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 47

#### PENSIONS GUIDANCE

1 The Financial Services and Markets Act 2000 is amended as follows.

<sup>F12</sup> .....

#### Textual Amendments

**F1** Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

<sup>F13</sup> .....

#### Textual Amendments

**F1** Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

<sup>F14</sup> .....

#### Textual Amendments

**F1** Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

<sup>F15</sup> .....

#### Textual Amendments

**F1** Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

6 After section 137FA insert—

#### **“137FB FCA general rules: disclosure of information about the availability of pensions guidance**

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits.

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- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
  - (a) the Secretary of State, and
  - (b) the Treasury.
- (3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members of pension schemes, and survivors of members of pension schemes, with subsisting rights in respect of any flexible benefits.
- (4) In this section—
  - “flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;
  - “pensions guidance” means pensions guidance given by virtue of Part 20A;
  - “relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—
    - (a) a personal pension scheme within the meaning of an order under section 22, or
    - (b) a stakeholder pension scheme within the meaning of such an order;
  - “subsisting right” has the meaning given by section 76 of the Pension Schemes Act 2015;
  - “survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.”

- 7 (1) Section 138F (notification of rules) is amended as follows.
- (2) The existing text becomes subsection (1).
- (3) After that subsection insert—

“(2) Subsection (1)(b) does not apply to rules made under or by virtue of section 137FB, 333Q or 333R.”

- 8 In section 138I (rules: consultation by the FCA)—
  - (a) in subsection (6) (exemption from requirement to carry out a cost benefit analysis), after paragraph (a) insert—
    - “(aa) section 137FB;”;
  - <sup>F2</sup>(b) .....
  - (c) in subsection (10) (rules to which requirement to consult the PRA does not apply), after “apply to” insert “—
    - (a) rules made by the FCA under section 137FB, 333Q or 333R, or
    - (b)”.

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**Textual Amendments**

**F2** Sch. 3 para. 8(b) omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F3**9 .....

**Textual Amendments**

**F3** Sch. 3 paras. 9-11 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F3**10 .....

**Textual Amendments**

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**F3**11 .....

**Textual Amendments**

**F3** Sch. 3 paras. 9-11 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**12** In section 429 (Parliamentary control of statutory instruments), in subsection (2) (regulations subject to the affirmative resolution procedure), for “or 262” substitute “, 262, 333C or 333R”.

**F4**13 .....

**Textual Amendments**

**F4** Sch. 3 paras. 13-15 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F4**14 .....

**Textual Amendments**

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**Textual Amendments**

**F4** Sch. 3 paras. 13-15 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

- 16 In that Schedule, in paragraph 23 (fees)—
- (a) in sub-paragraph (1), in the opening words, after “of this Act” insert “ other than sections 333Q and 333R ”;
  - (b) in sub-paragraph (1)(a), after “functions” insert “ , other than its excepted functions, ”;
  - (c) in sub-paragraph (2)(a), after “(ca)” insert “ but not its excepted functions ”;
  - (d) after sub-paragraph (2) insert—
    - “(2ZA) The “excepted functions” of the FCA are—
    - (a) its functions under sections 333E to 333Q, and
    - (b) its functions under section 333R so far as relating to the collection of payments.”

<sup>F5</sup>17 .....

**Textual Amendments**

**F5** Sch. 3 para. 17 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

- 18 (1) For the purpose of the exercise of a function conferred by a provision listed in the first column of the table, a consultation requirement listed in the corresponding entry in the second column may be satisfied by things done before the day on which this Act is passed.

<i>Provision conferring function</i>	<i>Consultation requirement</i>
Section 137FB of FSMA	Sections 137FB(2) and 138I(1) of FSMA
Section 333E(1)(e) of FSMA	Section 333E(2) of FSMA
Section 333H(1) of FSMA	Section 138I(1) of FSMA as applied with modifications by section 333H(6) of FSMA
Section 333K(1) of FSMA	Section 333L(1) of FSMA
Section 333P(1) of FSMA	Section 138(1)(b) of FSMA as applied by section 333P(3) of FSMA
Section 333Q(1) of FSMA	Sections 138I(1) and 333Q(2) of FSMA.
Section 333R(2) of FSMA	Sections 138I(1) and 333R(4) of FSMA

- (2) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed standards for the giving of pensions guidance by designated guidance providers—
- (a) the consultation requirement in section 138I of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the draft is not accompanied by—

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- (i) a cost benefit analysis, or
      - (ii) an explanation of the Financial Conduct Authority's reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers, and
    - (b) if it is, any resulting standards published under section 138G(4) of FSMA must be accompanied by—
      - (i) a cost benefit analysis within the meaning of section 138I of that Act even if the conditions in subsection (5) of section 138I are not satisfied, and
      - (ii) an explanation of the Financial Conduct Authority's reasons for believing that setting the standards will secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
  - (3) References in sub-paragraph (2) to provisions of sections 138G and 138I of FSMA are to those provisions as applied with modifications by section 333H(6) of that Act.
  - (4) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits, the consultation requirement in section 137FB(2) of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the only consultation before publication was with the Treasury.
  - (5) In this paragraph—
    - “consultation requirement” includes—
      - (a) a requirement to publish a draft;
      - (b) a requirement under section 333E(2)(b) or (c) of FSMA;
    - “FSMA” means the Financial Services and Markets Act 2000.
- 19 Expenses incurred by the Financial Conduct Authority before the day on which this Act is passed in anticipation of the conferral of functions on it by virtue of the amendments made by this Schedule are to be treated as if they had been incurred on or after that day.

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