



Department  
for Work &  
Pensions

# Draft Pensions Bill

Presented to Parliament by the Secretary of State  
for Work and Pensions by Command of Her Majesty  
January 2013

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# Introduction

1. The UK state pension system is a product of 70 years of expansion, reform and adjustment. One of the key concepts of the Beveridge report<sup>1</sup>, published in 1942, was the introduction of a simple flat-rate State Pension to meet basic income needs and provide a foundation for saving. Since then, successive governments have built on this model for the State Pension, making modifications to keep pace with social and economic change. This piecemeal approach to state pension reform has resulted in an increasingly complex system where most people do not know what they will get from the State when they retire. Long-term decline in the relative value of the basic State Pension and the resultant growth in means-tested benefits, along with the introduction of additional state earnings-related pension provision, has further compounded this complexity.
2. Fundamental reform of the state pension system is needed to ensure that we are able to provide the right foundation to allow people to plan and save for their retirement with confidence, and to address historic inequalities which remain in the system.
3. In April 2011, the Government published *A state pension for the 21st century*<sup>2</sup>, Cm 8053, which consulted on two broad options for reforming the state pension system for future pensioners. This was followed by *The single-tier pension: a simple foundation for saving*<sup>3</sup>, Cm 8528, which set out the details of the Government's proposals to reform the state pension system through the introduction of a single-tier pension. A copy of this paper is available on the Department for Work and Pensions' website: **[www.dwp.gov.uk/single-tier-pension](http://www.dwp.gov.uk/single-tier-pension)**
4. This draft Pensions Bill contains provisions to introduce a single-tier pension which will, for future pensioners, replace the current two-component State Pension (basic State Pension and additional State Pension) with a single component flat-rate pension that is set above the basic level of means-tested support. These reforms will deliver a simple state pension system for future pensioners that will provide people with clarity and confidence to better support saving for retirement. They will also modernise the state pension system to reflect the lives and contributions of today's working-age people, whilst ensuring the system is sustainable for future generations.

<sup>1</sup> Beveridge W, 1942, *Social Insurance and Allied Services*, Cmd. 6404, HMSO.

<sup>2</sup> Department for Work and Pensions, 2011, *A state pension for the 21st century*, Cm 8053, TSO.

<sup>3</sup> Department for Work and Pensions, 2013, *The single-tier pension: a simple foundation for saving*, Cm 8528, TSO.

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5. Changes to the State Pension age also play a key role in ensuring that the state pension system remains sustainable and affordable in the long term.
6. The Government has already taken action to increase the State Pension age to 66 by October 2020 to ensure that the costs of the state pension system remained manageable in light of rising life expectancy. However, life expectancy continues to improve and this draft Pensions Bill contains two key State Pension age measures to ensure the system remains sustainable.
7. The first change brings forward the increase in the State Pension age to 67 by eight years, as announced in November 2011. This means the State Pension age will gradually rise from 66 to 67 between 2026 and 2028.
8. However, as life expectancy continues to increase, the Government believes there is a need for a more structured framework within which to consider changes to the State Pension age in the future. The draft Pensions Bill includes legislation for this more structured framework as set out in *The single-tier pension: a simple foundation for saving*<sup>4</sup>. The framework provides for:
  - a review of the State Pension age every five years, with the first review taking place in the next Parliament;
  - the review to be based around the principle that people should expect to spend a certain proportion of their adult life in retirement; and
  - the review to be informed by reports from the Government Actuary's Department analysing the proportion of adult life people reaching State Pension age within a specified time period can expect to spend in retirement and from an independently-led body on other factors to be taken into account when setting the State Pension age.
9. In addition to the measures relating to state pension reform the draft Pensions Bill includes measures to reform the current suite of Bereavement Benefits through the introduction of Bereavement Support Payment.
10. In late 2011/early 2012, the Government consulted on how the bereavement benefits system could be improved to make it more effective for the 21st century. The complicated payment structure and eligibility conditions of the current system make it difficult for people to understand what they are entitled to receive in the event of a spousal bereavement.
11. In July 2012, the Government published its response to the consultation, outlining the intention to reform the bereavement benefits system by introducing a single benefit to support people after bereavement – the Bereavement Support Payment. The reforms will significantly simplify the payment system by moving to a more uniform structure, with support focused on the period immediately following bereavement. The contribution conditions will also be simplified with the introduction of a single rule, irrespective of age and child dependent status. The Bereavement Support Payment will support people through the difficult early months following bereavement in a more transparent way, ensuring the benefit works more effectively as social insurance.

<sup>4</sup> Department for Work and Pensions, 2013, *The single-tier pension: a simple foundation for saving*, Cm 8528, TSO.

12. Finally, this draft Bill contains a number of provisions relating to private pensions. Most of these clarify existing legislation relating to automatic enrolment or the Pensions Regulator, but there is a new provision to allow regulations to be made to ban the practice of providing non-pension inducements to encourage individuals to transfer a cash equivalent value of their accrued rights from a Defined Benefit scheme to an alternative arrangement.
13. In addition to the draft Bill, this document includes the explanatory notes which provide an outline of the effect of each clause in the draft Bill and are intended to be read alongside the draft Bill.
14. A Summary of Impacts will be produced for the draft Bill containing individual Impact Assessments. This document will be available on the Department for Work and Pensions' website: **[www.dwp.gov.uk/draft-pensions-bill](http://www.dwp.gov.uk/draft-pensions-bill)**

## Comments on the draft legislation and pre-legislative scrutiny

15. The Government welcomes views on how this legislation is drafted and the effect this may have. The draft Bill is being submitted for formal pre-legislative scrutiny by the Work and Pensions Select Committee and we encourage interested parties to share any comments on the draft legislation with them. The Committee will issue a call for evidence in due course; more information will be available on **[www.parliament.uk/workpencom](http://www.parliament.uk/workpencom)** – the Select Committee's website.
16. In addition, parties may contact the Department for Work and Pensions directly at the address below. When contacting the Department please state whether you are writing as an individual, or on behalf of an organisation. If you are writing on behalf of an organisation, please make clear who the organisation represents, and how the views of members were obtained.
17. All comments on the draft Bill received by 22 March 2013 will be considered by the team working on the Bill and will be used to assist the Government in considering whether the legislation can be improved before it is introduced to Parliament.

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18. Following pre-legislative scrutiny, the Select Committee will publish a report. The Government will carefully consider this before introducing the Pensions Bill at the earliest opportunity, subject to the Parliamentary timetable.

# Pensions Bill

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**B I L L**

TO

Make provision about pensions and benefits payable to people in connection with bereavement; and for connected purposes.

**B**E 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

*Introduction*

**1 State pension**

- (1) This Part creates a benefit called state pension.
- (2) A person who reaches pensionable age before the day on which this section comes into force is not entitled to benefits under this Part (but may be entitled to similar benefits under Part 2 of the Contributions and Benefits Act).

*State pension at the full or reduced rate*

**2 Entitlement to state pension at full or reduced rate**

- (1) A person is entitled to a state pension payable at the full rate if—
  - (a) the person has reached pensionable age, and
  - (b) the person has 35 or more qualifying years.
- (2) A person is entitled to a state pension payable at the reduced rate if—
  - (a) the person has reached pensionable age, and
  - (b) the person has at least the minimum number of qualifying years but fewer than 35 qualifying years.

- (3) The minimum number of qualifying years for a state pension payable at the reduced rate is to be specified in regulations.
- (4) In this Part “qualifying year” means a tax year, during a person’s working life, in which the person’s earnings factor (or the sum of the person’s earnings factors) is equal to or greater than the qualifying earnings factor for the year.
- (5) For earnings factors, see sections 22 and 23 of the Contributions and Benefits Act.
- (6) For transitional cases in which a person may be entitled to a different state pension (instead of a state pension under this section), see sections 4 and 11.
- (7) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.

### **3 Full and reduced rates of state pension**

- (1) The full rate of the state pension is the weekly rate for the time being specified in regulations.
- (2) The reduced rate of the state pension for a person is the following proportion of the full rate –

$$\frac{1}{35} \times \text{the person's number of qualifying years.}$$

- (3) Once the full rate has been specified, the power to make regulations under subsection (1) may not be re-exercised so as to reduce the rate.

#### *State pension at the transitional rate*

### **4 Entitlement to state pension at transitional rate**

- (1) A person is entitled to a state pension payable at the transitional rate if –
  - (a) the person has reached pensionable age,
  - (b) the person has at least the minimum number of qualifying years, and
  - (c) the person has at least one pre-commencement qualifying year.
- (2) The minimum number of qualifying years for a state pension payable at the transitional rate is to be specified in regulations.
- (3) A person entitled to a state pension payable at the transitional rate is not entitled to a state pension under section 2.
- (4) In this Part –
 

“post-commencement qualifying year” means a qualifying year beginning on or after the commencement date;

“pre-commencement qualifying year” means a qualifying year –

  - (a) beginning on or after 6 April 1978, and
  - (b) ending before the commencement date.
- (5) A person is also to be treated as having a “pre-commencement qualifying year” for each reckonable year that would have been treated as a qualifying year under regulation 13(1) of the Social Security (Widow’s Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 (S.I. 1979/643)

for the purposes of determining the person's entitlement to an old state pension that is a Category A retirement pension.

- (6) For earnings factors, see sections 22 and 23 of the Contributions and Benefits Act.
- (7) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

## **5 Transitional rate of state pension**

- (1) The transitional rate of the state pension for a person is a weekly rate equal to –
  - (a) the sum of the amounts calculated under Schedule 1 for the person's pre-commencement and post-commencement qualifying years, or
  - (b) if less, the full rate of the state pension on the day on which the person reaches pensionable age.
- (2) But if a weekly rate equal to the amount calculated under Schedule 1 for the person's pre-commencement qualifying years alone is higher than the full rate of the state pension on the day on which the person reaches pensionable age, that weekly rate is the transitional rate of the state pension for the person.
- (3) The transitional rate of the state pension for a person is to be increased from time to time in accordance with the applicable paragraph of Schedule 2.
- (4) Section 6 requires the transitional rate of the state pension for a person to be recalculated in certain circumstances.
- (5) There are special rules about the transitional rate for certain women: see section 12 (reduced rate elections).

## **6 Recalculation and backdating of transitional rate in special cases**

- (1) This section modifies the transitional rate of the state pension for a person if, after the person has reached pensionable age, a determination is made under section 48A(2) of the Pension Schemes Act 1993 (contracting-out: reinstatement in state scheme following payment of contributions equivalent premium).
- (2) The person's transitional rate is to be recalculated (taking the determination into account under paragraph 3(7) of Schedule 1).
- (3) The recalculated rate has effect as from the day on which the person reached pensionable age (and the other provisions of this Part apply accordingly).

*Transitional entitlement based on contributions of others*

## **7 Survivor's pension based on inheritance of additional old state pension**

- (1) A person is entitled to a state pension under this section if –
  - (a) the person has reached pensionable age,
  - (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other, and
  - (c) the person is entitled to an inherited amount under Schedule 3.
- (2) A state pension under this section is payable at a weekly rate equal to the inherited amount.

- 
- (3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 4.
  - (4) Regulations may provide that if at any time the sum of the relevant state pensions for a person exceeds an amount provided for by regulations, the rate of any state pension payable to the person under this section is to be reduced by the amount of the excess.
  - (5) The “sum of the relevant state pensions” for a person is the sum of –
    - (a) the rate of any state pension payable to the person under this section (ignoring any reduction under subsection (4)), and
    - (b) the rate of any state pension payable to the person under section 2, 4 or 11.
  - (6) In subsections (4) and (5) a reference to the rate of a person’s state pension is to the rate –
    - (a) taking into account any reduction under section 14 (in the case of a state pension under section 4), but
    - (b) ignoring any increase under section 17.
  - (7) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.

## **8 Choice of lump sum or survivor’s pension under section 9 in certain cases**

- (1) A person is entitled to a choice under this section if –
  - (a) the person has reached pensionable age,
  - (b) the person’s spouse died while they were married or the person’s civil partner died while they were civil partners of each other,
  - (c) the spouse or civil partner’s entitlement to an old state pension was deferred at the time of death and throughout the period of 12 months ending with the day before the death,
  - (d) either: (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or (ii) the person was over pensionable age when the spouse or civil partner died, and
  - (e) the person would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act: (i) the words “before the new state pension introduction date” were omitted, and (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 27 of this Act.
- (2) The person may choose –
  - (a) to be paid a lump sum under this section, or
  - (b) to be paid a state pension under section 9.
- (3) Regulations are to set out the manner in which, and the period within which, that choice is to be made.
- (4) A person who chooses to be paid a lump sum under this section, or who fails to choose within that period, is entitled to a “widowed person’s or surviving civil partner’s lump sum” calculated under paragraph 7B of Schedule 5 to the Contributions and Benefits Act.
- (5) In that paragraph as it applies for the purposes of this section –

- (a) read the references to “W” as references to the person,
  - (b) read sub-paragraph (5) as if it required increases under paragraph 4 of the Schedule to be excluded, and
  - (c) read the reference in sub-paragraph (7)(a) to the date on which W becomes entitled to a Category A or Category B retirement pension as a reference to the date on which the person becomes entitled to make a choice under this section.
- (6) There are provisions elsewhere that affect a person’s entitlement to a lump sum under this section.
- (7) Regulations may allow a person, in specified circumstances –
  - (a) to alter his or her choice under this section;
  - (b) to make a late choice.
- (8) Regulations under subsection (7) may, for the purpose of avoiding the duplication of payment –
  - (a) enable recovery of an amount paid to the person, or
  - (b) reduce the amount of a lump sum to be paid to the person.
- (9) For the purposes of this section –
  - (a) “deferred” has the meaning given by section 55(3) of the Contributions and Benefits Act,
  - (b) “the relevant provisions” of the Contributions and Benefits Act are –
    - section 44(1)(a);
    - section 48(1);
    - section 48A(1) and (3);
    - section 48B(1), (1A), (4) and (4A);
    - section 48BB(1) and (3), and
  - (c) in determining whether a person would have been entitled to an old state pension as mentioned in subsection (1)(e) ignore any requirement to make a claim.

## 9 Survivor’s pension based on inheritance of deferred old state pension

- (1) A person is entitled to a state pension under this section if –
  - (a) the person has reached pensionable age,
  - (b) the person’s spouse died while they were married or the person’s civil partner died while they were civil partners of each other,
  - (c) either: (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or (ii) the person was over pensionable age when the spouse or civil partner died,
  - (d) the person is entitled to an inherited deferral amount under Schedule 5, and
  - (e) in the case of a person entitled to a choice under section 8, the person has chosen to be paid a state pension under this section.
- (2) A state pension under this section is payable at a weekly rate equal to the inherited deferral amount.
- (3) But if at any time an order under section 151A of the Administration Act comes into force, the rate of the person’s state pension under this section is increased (at that time) by the percentage specified in the order.

- (4) A person may be entitled to more than one state pension under this section.
- (5) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

## 10 Inheritance of graduated retirement benefit

- (1) Regulations may make provision corresponding or similar to any provision of sections 7 to 9 and Schedules 3 to 5 for the purpose of conferring benefits on a person whose dead spouse or civil partner paid graduated contributions as an insured person.
- (2) The regulations may –
  - (a) include provision corresponding or similar to any provision that may be made by regulations under section 7 or 8;
  - (b) amend or otherwise modify this Act or any other enactment (whenever passed or made).
- (3) In this section “graduated contributions” and “insured person” have the meanings given by section 36(8) of the National Insurance Act 1965.

*Transition: women who have had a reduced rate election*

## 11 Reduced rate elections: pension for women with no section 4 pension

- (1) A woman is entitled to a state pension under this section if –
  - (a) she has reached pensionable age,
  - (b) a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period,
  - (c) she does not have any pre-commencement qualifying years, and
  - (d) she is entitled to a basic amount under Schedule 6.
- (2) A state pension under this section is payable at a weekly rate equal to the basic amount.
- (3) But if at any time the full rate of the state pension is increased, the rate of the woman's state pension under this section is increased (at that time) by the same percentage as the increase in the full rate.
- (4) In subsection (3) the reference to the rate of the woman's state pension is to the rate ignoring any increase under section 17.
- (5) A woman is not entitled to a state pension under this section and section 2 at the same time: she is only entitled to the one with the higher rate.
- (6) There are provisions elsewhere that affect a woman's entitlement to a state pension under this section or the rate at which it is payable.
- (7) In this section –
  - “reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;
  - “relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.



**12 Reduced rate elections: effect on section 4 pensions**

- (1) Section 4(1)(b) (minimum number of qualifying years for state pension at the transitional rate) does not apply to a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.
- (2) Schedule 7 modifies the rules about the transitional rate of the state pension for a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.
- (3) In this section –
  - “reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;
  - “relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

*Transition: pension sharing on divorce etc*

**13 Shared state pension on divorce etc**

- (1) A person is entitled to a state pension under this section if –
  - (a) the person has reached pensionable age, and
  - (b) the person is entitled to a state scheme pension credit.
- (2) A state pension under this section is payable at the appropriate weekly rate set out in Schedule 8.
- (3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 9.
- (4) A person may be entitled to more than one state pension under this section.
- (5) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.
- (6) In this Part –
  - “state scheme pension credit” means –
    - (a) a new state scheme pension credit, or
    - (b) an old state scheme pension credit;
  - “new state scheme pension credit” means a credit under section 49A(2)(b) of the Welfare Reform and Pensions Act 1999;
  - “old state scheme pension credit” means a credit under section 49(1)(b) of that Act.

**14 Pension sharing: reduction in the sharer’s section 4 pension**

- (1) The rate of a person’s state pension under section 4 is reduced under this section if the person is subject to a state scheme pension debit.
- (2) The amount by which the rate is reduced is the amount of the appropriate weekly reduction set out in Schedule 10.
- (3) A person’s state pension may be reduced more than once under this section.
- (4) In this Part –

“state scheme pension debit” means –

- (a) a new state scheme pension debit, or
- (b) an old state scheme pension debit;

“new state scheme pension debit” means a debit under section 49A(2)(a) of the Welfare Reform and Pensions Act 1999;

“old state scheme pension debit” means a debit under section 49(1)(a) of that Act.

## **15 Pension sharing: amendments**

Schedule 11 contains amendments to do with pension sharing.

### *Postponing or suspending state pension*

## **16 Pensioner’s option to suspend state pension**

- (1) A person who has become entitled to a state pension under this Part may opt to suspend his or her entitlement in accordance with regulations.
- (2) A person is not entitled to any state pension under this Part for the period for which the person has opted to suspend his or her entitlement.
- (3) For other effects of a person exercising the option, see section 17.
- (4) A person may not opt to suspend his or her entitlement to a state pension under this Part on more than one occasion.
- (5) Regulations may specify other circumstances in which a person may not opt to suspend his or her entitlement to a state pension under this Part.
- (6) Regulations may allow a person who has opted to suspend his or her entitlement to a state pension under this Part to cancel the exercise of that option (in whole or in part) in relation to a past period.

## **17 Effect of pensioner postponing or suspending state pension**

- (1) If a person’s entitlement to a state pension under this Part has been deferred for a period, the weekly rate of the person’s state pension is increased by an amount equal to the sum of the increments to which the person is entitled.
- (2) But the weekly rate is not to be increased under subsection (1) if the increase would be less than 1% of the person’s weekly rate ignoring that subsection.
- (3) A person is entitled to one increment for each whole week in the period during which the person’s entitlement to a state pension was deferred.
- (4) The amount of an increment is equal to a specified percentage of the weekly rate of the state pension to which the person would have been entitled immediately before the end of that period if the person’s entitlement had not been deferred.
- (5) In subsection (4) “specified” means specified in regulations.
- (6) The amount of an increase under this section is itself to be increased from time to time in accordance with any order made under section 150 of the Administration Act (annual up-rating of benefits).

- (7) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is deferred for a period if the person has opted under section 16 to suspend his or her entitlement for that period.
- (8) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is also deferred for a period if the person is not entitled to it for that period by reason only of –
  - (a) not satisfying the conditions in section 1 of the Administration Act (entitlement dependent on claim etc), or
  - (b) subsection (9) below.
- (9) A person is not entitled to a state pension under this Part for any period during which his or her entitlement to any other state pension under this Part is deferred.

## 18 Section 17 supplementary: calculating weeks, overseas residents, etc

- (1) Regulations may –
  - (a) provide for circumstances in which a part of a week is to be treated for the purposes of section 17(3) as a whole week, and
  - (b) provide for circumstances in which a day does not count in determining a number of whole weeks for the purposes of section 17(3) (for example if the person is receiving other benefits).
- (2) Regulations may modify section 17(4) in cases where, at any time in the period during which a person's entitlement to a state pension is deferred, the rate for the person would have changed otherwise than because of an up-rating increase.
- (3) Regulations may modify section 17(4) in relation to a person who has been an overseas resident during any part of the period for which the person's entitlement to a state pension has been deferred.
- (4) In subsection (3) “overseas resident” means a person who is not ordinarily resident in Great Britain or any other territory specified in the regulations.
- (5) Regulations may amend the percentage specified in section 17(2).

### *Prisoners and overseas residents*

## 19 Prisoners

- (1) Regulations may provide that a person is not to be paid a state pension under this Part for any period during which the person is a prisoner.
- (2) “Prisoner” means a person (in Great Britain or elsewhere) who is –
  - (a) imprisoned or detained in legal custody, or
  - (b) unlawfully at large.
- (3) In the case of a person remanded in custody for an offence, regulations under subsection (1) may be made so as to apply only if a sentence of a specified description is later imposed on the person for the offence.

**20 Overseas residents**

- (1) Regulations may provide that an overseas resident who is entitled to a state pension under this Part is not entitled to up-rating increases.
- (2) In this section “overseas resident” means a person who is not ordinarily resident in Great Britain or any other territory specified in the regulations.
- (3) Regulations under this section do not affect the rate of an overseas resident’s state pension for any period during which he or she is in Great Britain or a territory specified in the regulations (but once the overseas resident ceases to be in Great Britain or a specified territory the rate reverts to what it would have been had he or she not been in Great Britain or a specified territory).
- (4) Regulations under this section do not affect the rate of a person’s state pension once the person stops being an overseas resident.

*Definitions***21 “Old state pension”**

- (1) In this Part “old state pension” means a Category A retirement pension or a Category B retirement pension.
- (2) A reference in this Part to the rate of an old state pension (however expressed) does not include—
  - (a) graduated retirement benefit under the National Insurance Act 1965, or
  - (b) any increase in the rate because of Schedule 5 to the Contributions and Benefits Act (deferral increases).

**22 General definitions etc**

- (1) In this Part—
  - “the Administration Act” means the Social Security Administration Act 1992;
  - “Category A retirement pension” means a Category A retirement pension under Part 2 of the Contributions and Benefits Act;
  - “Category B retirement pension” means a Category B retirement pension under Part 2 of the Contributions and Benefits Act;
  - “the commencement date” means the date on which section 1 comes into force;
  - “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;
  - “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - “full rate” means the rate mentioned in section 3(1);
  - “old state pension” has the meaning given by section 21 (and references to the rate of an old state pension are to be read in accordance with that section);
  - “pensionable age” has the meaning given by section 122(1) of the Contributions and Benefits Act; and a person is “over” pensionable age if the person has reached that age (and is otherwise “under” that age);
  - “post-commencement qualifying year” has the meaning given by section 4(4);

“pre-commencement qualifying year” is to be read in accordance with section 4(4) and (5);

“qualifying earnings factor” has the meaning given by section 122(1) of the Contributions and Benefits Act;

“qualifying year” has the meaning given by section 2(4);

“reduced rate” means the rate mentioned in section 3(2);

“regulations” means regulations made by the Secretary of State;

“state scheme pension credit”, and related expressions, have the meaning given by section 13;

“state scheme pension debit”, and related expressions, have the meaning given by section 14;

“tax year” has the meaning given by section 122(1) of the Contributions and Benefits Act;

“transitional rate” means the rate mentioned in section 5;

“up-rating increase”, in relation to a state pension under this Part, means –

- (a) an increase in the rate of the state pension because of an increase in the amount specified in regulations under section 3(1), or
- (b) an increase in the rate of the state pension because of section 9(3), 11(3) or 17(6) or Schedule 2, 4 or 9;

“working life” has the meaning given by section 122(1) of the Contributions and Benefits Act.

- (2) For the purposes of any other provision of this Part a husband and wife are to be treated as if they are not married to each other in relation to times when either of them is married to a third person.
- (3) The Secretary of State may by order amend this Part, or any enactment amended by it, so as to replace a reference to the date on which section 1 comes into force (however expressed) with a reference to the actual date appointed for that section to come into force.

### *Consequential and other amendments*

## **23 Amendments**

In Schedule 12 –

Part 1 contains amendments to do with state pensions under this Part;

Part 2 contains key amendments to do with the old state pension system;

Part 3 contains amendments to do with state pension credit;

Part 4 contains other amendments to do with this Part.

## **24 Abolition of contracting-out for salary related schemes etc**

- (1) Schedule 13 contains amendments to abolish contracting-out for salary related schemes.
- (2) An employer may amend an occupational pension scheme in relation to some or all of its members to take account of increases in the employer’s national insurance contributions in respect of those members because of the repeal of section 41 of the Pension Schemes Act 1993 (by Schedule 13 to this Act).
- (3) The power may not be used to amend –

- (a) a public service pension scheme, or
  - (b) a scheme of a description specified in regulations under this paragraph.
- (4) Schedule 14 contains more detail about the power.
- (5) In this section and Schedule 14 –
- “employer”, in relation to a scheme, means the employer of persons in the description of employment to which the scheme relates;
  - “member” has the meaning given by section 124(1) of the Pensions Act 1995;
  - “national insurance contributions”, in relation to an employer, means secondary Class 1 national insurance contributions payable by the employer;
  - “occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;
  - “public service pension scheme” has the meaning given by that section.
- (6) Subsections (2) to (5) and Schedule 14 are repealed at the end of the period of 5 years beginning with the commencement date.
- (7) The Secretary of State may by order amend subsection (6) to extend the period for the time being mentioned there.

## PART 2

### PENSIONABLE AGE

#### 25 Increase in pensionable age to 67

- (1) Paragraph 1 of Schedule 4 to the Pensions Act 1995 is amended as follows.
  - (2) In sub-paragraph (6) for “6th April 1968” substitute “6th April 1960”.
  - (3) For sub-paragraph (7) and table 3 substitute –
- “(7) A person born on any day in a period mentioned in column 1 of table 3 attains pensionable age when the person attains the age shown against that period in column 2.

TABLE 3

(1)	(2)
<i>Period within which birthday falls</i>	<i>Age pensionable age attained</i>
6th April 1960 to 5th May 1960	66 years and 1 month
6th May 1960 to 5th June 1960	66 years and 2 months
6th June 1960 to 5th July 1960	66 years and 3 months
6th July 1960 to 5th August 1960	66 years and 4 months
6th August 1960 to 5th September 1960	66 years and 5 months
6th September 1960 to 5th October 1960	66 years and 6 months

(1)	(2)
<i>Period within which birthday falls</i>	<i>Age pensionable age attained</i>
6th October 1960 to 5th November 1960	66 years and 7 months
6th November 1960 to 5th December 1960	66 years and 8 months
6th December 1960 to 5th January 1961	66 years and 9 months
6th January 1961 to 5th February 1961	66 years and 10 months
6th February 1961 to 5th March 1961	66 years and 11 months

(7A) For the purposes of table 3—

- (a) a person born on 31st July 1960 is to be taken to attain the age of 66 years and 4 months at the commencement of 30th November 2026;
- (b) a person born on 31st December 1960 is to be taken to attain the age of 66 years and 9 months at the commencement of 30th September 2027;
- (c) a person born on 31st January 1961 is to be taken to attain the age of 66 years and 10 months at the commencement of 30th November 2027.”

- (4) In sub-paragraph (8) for “5th April 1969” substitute “5th March 1961”.

## 26 Periodic review of rules about pensionable age

- (1) The Secretary of State must from time to time—
  - (a) review whether the rules about pensionable age are appropriate, having regard to life expectancy and other factors that the Secretary of State considers relevant, and
  - (b) prepare and publish a report on the outcome of the review.
- (2) The first report must be published before 7 May 2017.
- (3) Each subsequent report must be published before the end of the period of 6 years beginning with the day on which the previous report was published.
- (4) For the purposes of each review, the Secretary of State must require the Government Actuary or Deputy Government Actuary to prepare a report for the Secretary of State on—
  - (a) whether the rules about pensionable age mean that, on average, a person who reaches pensionable age within a specified period can be expected to spend a specified proportion of his or her adult life in retirement, and
  - (b) if not, ways in which the rules might be changed with a view to achieving that result.
- (5) The Secretary of State must, for the purposes of a review, appoint a person or persons to prepare a report for the Secretary of State on other specified factors relevant to the review.
- (6) The Secretary of State must lay before Parliament any report prepared under this section.

- (7) For the purposes of subsection (4) –
- (a) a person’s adult life is the part of the person’s life after he or she reaches the specified age;
  - (b) the proportion of a person’s adult life spent in retirement is the proportion of his or her adult life spent after reaching pensionable age.
- (8) In this section –
- “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (and “the rules about pensionable age” means those rules);
  - “specified” means specified by the Secretary of State.

### PART 3

#### BEREAVEMENT SUPPORT PAYMENT

#### 27 Bereavement support payment

- (1) A person is entitled to a benefit called bereavement support payment if –
- (a) the person’s spouse or civil partner dies,
  - (b) the person is under pensionable age when the spouse or civil partner dies, and
  - (c) the contribution condition is met (see section 28).
- (2) Regulations are to specify –
- (a) the rate of the benefit, and
  - (b) the period for which it is payable.
- (3) The regulations may specify different rates for different periods.
- (4) In the case of a person who is pregnant or entitled to child benefit in specified circumstances, the regulations may –
- (a) specify a higher rate;
  - (b) provide for the allowance to be payable for a longer period.
- (5) A person is not entitled to bereavement support payment for periods after the person has reached pensionable age.
- (6) A person is not entitled to bereavement support payment if the death occurred before this section came fully into force.
- (7) In this section “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.

#### 28 Bereavement support payment: contribution condition and amendments

- (1) For the purposes of section 27(1)(c) the contribution condition is that, for at least one tax year during the deceased’s working life –
- (a) he or she actually paid Class 1 or Class 2 national insurance contributions, and
  - (b) those contributions give rise to an earnings factor (or total earnings factors) equal to or greater than 25 times the lower earnings limit for the tax year.



- (2) For earnings factors, see sections 22 and 23 of the Social Security Contributions and Benefits Act 1992.
- (3) For the purposes of section 27(1)(c) the contribution condition is to be treated as met if the deceased was an employed earner and died as a result of –
  - (a) a personal injury of the kind mentioned in section 94(1) of the Social Security Contributions and Benefits Act 1992, or
  - (b) a disease or personal injury of the kind mentioned in section 108(1) of that Act.
- (4) In this section the following expressions have the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992 –
  - “employed earner”,
  - “lower earnings limit”,
  - “tax year”, and
  - “working life”.
- (5) Schedule 15 contains amendments to do with bereavement support payment.

## PART 4

### PRIVATE PENSIONS

#### 29 Power to prohibit offer of incentives to transfer pension rights

- (1) The Secretary of State may by regulations make provision prohibiting a person from offering an incentive to another person with the intention of inducing a member of a salary related occupational pension scheme to –
  - (a) exercise a right to require a pensions transfer, or
  - (b) agree to a pensions transfer.
- (2) “Pensions transfer” means a transfer of sums or assets representing any of the member’s pension rights to be used for one or more of the following –
  - (a) acquiring rights (whether to present or future benefit) for the member under the rules of another occupational pension scheme or a personal pension scheme;
  - (b) purchasing one or more annuities for the member;
  - (c) subscribing to other pension arrangements for the member.
- (3) “Pension right” means, at any time –
  - (a) any right which at that time has accrued to or in respect of the member to future benefits under the scheme rules, or
  - (b) any entitlement to the present payment of a pension or other benefit which the member has at that time, under the scheme rules;
 and for this purpose “right” includes a pension credit right.
- (4) Regulations under this section may in particular –
  - (a) provide for the prohibition to apply whether the incentive offered is to be provided by the person making the offer or another person;
  - (b) create exceptions to the prohibition;
  - (c) provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a person who contravenes the regulations.

- 
- (5) Regulations made by virtue of subsection (4)(c) may in particular provide that for the purposes of section 10 of the Pensions Act 1995 the offer of an incentive is to be regarded as a separate act in relation to each member of a scheme to whom the incentive relates.
  - (6) Nothing in any regulations made under this section affects the validity of a pensions transfer (or of the exercise of a right to require a transfer or of an agreement to a transfer).
  - (7) In this section –
    - “incentive” means a financial or other advantage;
    - “member” has the meaning given by section 124(1) of the Pensions Act 1995;
    - “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act 1993;
    - “pension credit right” has the meaning given by section 124(1) of the Pensions Act 1995;
    - “salary related occupational pension scheme” has the meaning given by section 93(1A) of the Pension Schemes Act 1993;
    - “scheme rules” has the meaning given by section 67A(8) of the Pensions Act 1995.

### 30 Expiry of power in section 29

If no regulations have been made under section 29 by the end of the period of 7 years beginning with the day on which it comes into force, that section is repealed at the end of that period.

### 31 Prohibition and suspension orders: directors of corporate trustees

- (1) The Pensions Act 1995 is amended as follows.
- (2) After section 3 insert –

#### “3A Prohibition orders: directors of corporate trustees etc

- (1) A company or Scottish partnership is prohibited from being a trustee of a trust scheme at any time when an individual who is a director of the company or a partner in the partnership is prohibited from being a trustee of the scheme by an order under section 3.
- (2) Where a company or partnership which is a trustee of a trust scheme becomes prohibited under subsection (1) in relation to the scheme, that subsection has the effect of removing the company or partnership as a trustee.
- (3) The Authority may, on the application of a company or Scottish partnership, give notice in writing to the applicant waiving the prohibition under subsection (1) –
  - (a) in relation to an individual against whom an order under section 3 has been made, and
  - (b) either generally or in relation to a particular scheme or particular description of schemes.
- (4) A notice may be given under subsection (3) only if the Authority is satisfied that the applicant would be a fit and proper person to be a

trustee of the scheme or schemes to which the notice relates despite the individual being, or even if the individual were to become, a director of or partner in the applicant.

- (5) A notice given at any time under subsection (3) cannot affect anything done before that time.
- (6) An application under subsection (3) may not be made –
  - (a) during the period within which the determination to exercise the power to make the order against the individual may be referred to the Tribunal under section 96(3) or 99(7) of the Pensions Act 2004 (whether by a company or partnership which became prohibited under subsection (1) on the making of the order or by another person), and
  - (b) if the determination is so referred, until the reference, and any appeal against the Tribunal’s determination, has been finally disposed of.
- (7) The Authority must prepare and publish a statement of the policies they intend to adopt in relation to the exercise of their powers under this section.
- (8) The Authority may revise any statement published under subsection (7) and must publish any revised statement.
- (9) References in this section to an order under section 3 are to an order under that section made on or after the date on which section 31(2) of the Pensions Act 2013 comes fully into force.”
- (3) Section 4 (Pensions Regulator’s power to suspend trustee of occupational pension scheme) is amended as follows.
- (4) In subsection (1)(f), after “paragraph” insert “(aa),”.
- (5) In subsection (2)(a), after “or (aa)” insert “or, in a case where the Authority would have power to suspend a director or partner under paragraph (aa), by virtue of paragraph (f)”.
- (6) Schedule 16 contains consequential amendments.

### **32 Preparation of guidance for pensions illustrations**

In section 16 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (grants to bodies concerned with accounting standards etc), in subsection (2), after paragraph (o) insert –

- “(oa) exercising functions under regulations made under section 113(3A) of the Pension Schemes Act 1993 or section 109(3A) of the Pension Schemes (Northern Ireland) Act 1993 (preparing guidance for pensions illustrations);”.

### **33 Maximum period between scheme returns to be 5 years for micro schemes**

- (1) Section 63 of the Pensions Act 2004 is amended as follows.
- (2) After subsection (3) insert –
 

“(3A) But subsection (3)(a) has effect as if the reference to three years were a reference to five years if –

- (a) the trustees or managers have complied with paragraph (b) of section 62(2),
  - (b) the information they provided under that paragraph included the number of members of the scheme, and
  - (c) that number was no more than 4.”
- (3) After subsection (4) insert—
  - “(4A) But subsection (4)(a) has effect as if the reference to three years were a reference to five years if—
    - (a) on the date on which the previous scheme return notice was issued, the number of members of the scheme was recorded in the register, and
    - (b) that number was no more than 4.”

### **34 Automatic re-enrolment: exceptions where automatic enrolment deferred**

- (1) The Pensions Act 2008 is amended as follows.
- (2) In section 5 (automatic re-enrolment), after subsection (4) insert—
  - “(4A) Subsection (2) does not apply if the jobholder’s automatic enrolment date is deferred under section 4 from a date before the automatic re-enrolment date to a date after the automatic re-enrolment date.”
- (3) In section 30(7) (transitional period for defined benefits and hybrid schemes), at the end insert—
  - “(c) section 5(2) does not apply in relation to an automatic re-enrolment date that falls before the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”

### **35 Penalty notices under sections 40 and 41 of the Pensions Act 2008 etc**

- (1) In sections 40(1)(d) and 41(1)(d) of the Pensions Act 2008 (fixed and escalating penalty notices), at the end insert “; so far as relevant to the exercise of any of its functions under or by virtue of this Part”.
- (2) In section 72 of the Pensions Act 2004 (powers to require information), in subsection (1A), for “Chapter 2 of Part 1 of the Pensions Act 2008 or section 51 of that Act” substitute “or by virtue of Part 1 of the Pensions Act 2008”.

## **PART 5**

### **FINAL PROVISIONS**

### **36 Power to make consequential amendments etc**

- (1) The Secretary of State may by order make consequential, incidental or supplementary provision in connection with any provision made by this Act.
- (2) An order under this section may amend, repeal, revoke or otherwise modify any enactment (whenever passed or made).
- (3) “Enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.

**37 Regulations and orders**

- (1) Regulations and orders under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing (whether alone or with other provisions) –
  - (a) regulations under section 3, 10, 18(5) or 27,
  - (b) the first regulations under section 20, or
  - (c) an order under section 36 that amends or repeals a provision of an Act,
 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other statutory instrument containing regulations or an order under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing an order under section 39 only.
- (5) A power to make regulations or an order under this Act may be used –
  - (a) to make different provision for different purposes;
  - (b) in relation to all or only some of the purposes for which it may be used.
- (6) Regulations or orders under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

**38 Extent**

- (1) This Act extends to England and Wales and Scotland only, subject to the following provisions of this section.
- (2) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates.
- (3) This Part extends also to Northern Ireland.

**39 Commencement**

- (1) This Act comes into force on such day or days as the Secretary of State may by order appoint, subject as follows.
- (2) This Part comes into force on the day on which this Act is passed.
- (3) The following come into force at the end of the period of 2 months beginning with the day on which this Act is passed –
  - (a) Part 2,
  - (b) sections 29 and 30,
  - (c) section 32,
  - (d) section 35,
  - (e) paragraph 30(2) of Schedule 13.
- (4) 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.
- (5) An order under subsection (1) may appoint different days for different purposes.

**40 Short title**

This Act may be cited as the Pensions Act 2013.

## SCHEDULES

### SCHEDULE 1

Section 5

#### TRANSITIONAL RATE OF STATE PENSION: CALCULATING THE AMOUNT

#### PART 1

#### INTRODUCTION

- 1 (1) This Schedule sets out how to calculate the amounts used to work out the transitional rate of a person's state pension.
- (2) Part 2 of the Schedule sets out how to calculate the amount for a person's pre-commencement qualifying years.
- (3) Part 3 of the Schedule sets out how to calculate the amount for a person's post-commencement qualifying years (if any).

#### PART 2

#### AMOUNT FOR PRE-COMMENCEMENT QUALIFYING YEARS

#### *How to calculate the amount for pre-commencement qualifying years*

- 2 A person's amount for pre-commencement qualifying years is calculated as follows.

##### *Step 1 - calculate the person's pension under the old system*

Calculate the weekly rate based on the old state pension and graduated retirement benefit (see paragraph 3).

##### *Step 2 - calculate a pension based on the new system*

Calculate the weekly rate based on the new state pension (see paragraph 4).

##### *Step 3 - take whichever rate is higher*

Take whichever of the rates found under Steps 1 and 2 is higher.

##### *Step 4 - revalue to date when the person reached pensionable age*

Revalue the amount of that rate in accordance with paragraph 6.

The amount for the person's pre-commencement qualifying years is the amount as revalued under Step 4.

*Step 1: calculation of the person's pension under the old system*

- 3 (1) For the purposes of Step 1 of the calculation in paragraph 2, the weekly rate based on the old state pension and graduated retirement benefit is –
  - (a) the rate of any Category A retirement pension and graduated retirement benefit to which the person would have been entitled if the person had reached pensionable age on the commencement date, or
  - (b) the rate of any graduated retirement benefit to which the person would have been entitled under section 36(7) of the National Insurance Act 1965 (persons not entitled to retirement pension) if the person had reached pensionable age on that date.
- (2) The following rules apply for the purposes of calculating that rate.
- (3) Calculate the rate that would have had effect on the commencement date (but see sub-paragraph (6)).
- (4) Ignore –
  - (a) the amendments made by paragraphs 46 and 48 of Schedule 12 (which limit Category A retirement pensions and graduated retirement benefit to people who reach pensionable age before the commencement date);
  - (b) any requirement to make a claim;
  - (c) any provision suspending payment of, or disqualifying a person from receiving, any amount;
  - (d) section 45B of the Contributions and Benefits Act (reduction of additional pension because of pension sharing);
  - (e) section 37 of the National Insurance Act 1965 (graduated retirement benefit for widows etc).
- (5) Read the reference in section 45(4)(b) of the Contributions and Benefits Act (additional pension) to a person's working life as a reference to the period –
  - (a) beginning with the tax year in which the person reached 16, and
  - (b) ending with the tax year before the one in which the person actually reached pensionable age.
- (6) If an order under section 150 or 150A of the Administration Act (up-rating) is made before the commencement date and it provides for an increase to come into force after that date, it is to be treated for the purposes of calculating the rate under this paragraph as having already come into force.
- (7) A determination under section 48A(2) of the Pension Schemes Act 1993 (contracting-out: reinstatement in state scheme following payment of contributions equivalent premium) made on or after the commencement date is to be treated for the purposes of calculating the rate under this paragraph as having been made before the commencement date.

*Step 2: calculation of a pension based on the new system*

- 4 (1) For the purposes of Step 2 of the calculation in paragraph 2, the weekly rate based on the new state pension is as follows.
- (2) If the person has 35 or more pre-commencement qualifying years, the rate is equal to –
  - (a) the full rate of the state pension on the commencement date, less



- (b) any amount to reflect contracting out under the old system (see paragraph 5).
  - (3) If the person has fewer than 35 pre-commencement qualifying years, the rate is equal to –
    - (a) the appropriate proportion of the full rate of the state pension on the commencement date, less
    - (b) any amount to reflect contracting out under the old system (see paragraph 5).
  - (4) The “appropriate proportion”, in relation to a person, is –
    - $\frac{1}{35} \times$  the person's number of pre-commencement qualifying years.
- 5 In paragraph 4(2) and (3) references to an “amount to reflect contracting out under the old system” are to an amount equal to any difference between –
- (a) the amount of any additional pension included in the Category A retirement pension calculated for the purposes of Step 1 of the calculation in paragraph 2, and
  - (b) the amount of any additional pension that would have been included if the following were omitted –
    - (i) in section 45(2)(b) of the Contributions and Benefits Act, the words “but before the first appointed year”,
    - (ii) section 45(2)(c) and (d) of that Act, and
    - (iii) sections 46 and 48A of the Pension Schemes Act 1993.

*Step 4: revaluation*

- 6 (1) This paragraph determines how the amount mentioned in Step 4 of the calculation in paragraph 2 is to be revalued for the purposes of that Step.
- (2) If the amount is equal to or less than the full rate of the state pension on the commencement date, the amount is to be revalued in accordance with increases in the full rate of the state pension (see sub-paragraph (4)).
- (3) If the amount is greater than the full rate of the state pension on the commencement date –
- (a) so much of the amount as is equal to the full rate of the state pension on the commencement date is to be revalued in accordance with increases in the full rate of the state pension (see sub-paragraph (4)), and
  - (b) so much of the amount as exceeds the full rate of the state pension on that date is to be revalued in accordance with increases in the general level of prices (see sub-paragraph (5)).
- (4) For the purposes of sub-paragraphs (2) and (3)(a), an amount is revalued in accordance with increases in the full rate of the state pension by increasing it by the same percentage as any increase in the full rate of the state pension in the period –
- (a) beginning with the commencement date, and
  - (b) ending with the day on which the person reached pensionable age.
- (5) For the purposes of sub-paragraph (3)(b), an amount is revalued in accordance with increases in the general level of prices by adding –
- (a) the amount, and

- (b) the amount multiplied by the revaluing percentage specified in the last order under section 148AC(3) of the Administration Act to come into force before the person reached pensionable age.

### PART 3

#### AMOUNT FOR POST-COMMENCEMENT QUALIFYING YEARS

- 7 (1) A person's amount for post-commencement qualifying years (if any) is calculated as follows.
- (2) If the person has 35 or more post-commencement qualifying years, the amount is equal to the full rate of the state pension on the day on which the person reached pensionable age.
- (3) If the person has fewer than 35 post-commencement qualifying years, the amount is equal to the following proportion of the full rate of the state pension on the day on which the person reached pensionable age –
- $$\frac{1}{35} \times \text{the person's number of post-commencement qualifying years.}$$

### SCHEDULE 2

#### Section 5

#### TRANSITIONAL RATE OF STATE PENSION: UP-RATING

- 1 This Schedule sets out how to up-rate the transitional rate of a person's state pension.
- 2 In this Schedule a reference to the transitional rate of a person's state pension is to the rate –
- (a) taking into account any reduction under section 14, but
- (b) ignoring any increase under section 17.
- 3 (1) The transitional rate of a person's state pension is to be increased under this paragraph if it is equal to or less than the full rate.
- (2) If at any time the full rate of the state pension is increased, the person's transitional rate is increased (at that time) by the same percentage as the increase in the full rate.
- 4 (1) The transitional rate of a person's state pension is to be increased under this paragraph if it exceeds the full rate.
- (2) If at any time the full rate of the state pension is increased, the person's transitional rate is increased (at that time) by the same amount as the amount by which the full rate is increased.
- (3) If at any time an order under section 151A of the Administration Act comes into force, the person's transitional rate is increased (at that time) by an amount equal to the appropriate percentage of the excess.
- (4) In sub-paragraph (3) –
- “the appropriate percentage” means the percentage specified in the order, and

“the excess” means the amount by which the transitional rate exceeded the full rate immediately before the order came into force.

### SCHEDULE 3

Section 7

#### SURVIVOR’S PENSION UNDER SECTION 7: INHERITED AMOUNT

##### *Introduction*

- 1 This Schedule –
  - (a) sets out the circumstances in which a person (the “pensioner”) is entitled to an inherited amount for the purpose of section 7, and
  - (b) determines that amount.

##### *Dead spouse or civil partner in old state pension system etc*

- 2 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
  - (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the spouse or civil partner died before the commencement date,
  - (c) the pensioner was under pensionable age when the spouse or civil partner died, and
  - (d) the pensioner would, on reaching pensionable age, have been entitled to a Category B retirement pension under section 48B(4) or (4A) or 48BB of the Contributions and Benefits Act if the words “before the new state pension introduction date” were omitted.

(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the pensioner reached pensionable age if any element of the rate attributable to the basic pension were ignored.
- 3 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
  - (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the spouse or civil partner reached pensionable age before the commencement date but died on or after that date,
  - (c) the pensioner was under pensionable age when the spouse or civil partner died, and
  - (d) the pensioner would, on reaching pensionable age, have been entitled to a Category B retirement pension under section 48BB of the Contributions and Benefits Act if in subsection (3) of that section: (i) the words “before the new state pension introduction date” were omitted, and (ii) the reference to a bereavement allowance were a reference to bereavement support payment under section 27 of this Act.

(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the

pensioner reached pensionable age if section 48BB(8) and (9) of the Contributions and Benefits Act were ignored.

- 4 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
- (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the spouse or civil partner reached pensionable age before the commencement date but died on or after that date,
  - (c) the pensioner was over pensionable age when the spouse or civil partner died, and
  - (d) the pensioner would, when the spouse or civil partner died, have been entitled to a Category B retirement pension under section 48B(1) or (1A) of the Contributions and Benefits Act if the words “before the new state pension introduction date” were omitted.
- (2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the spouse or civil partner died if any element of the rate attributable to the basic pension were ignored.

*Dead spouse or civil partner in new state pension system*

- 5 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
- (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the pensioner was over pensionable age when the spouse or civil partner died,
  - (c) the spouse or civil partner was, immediately before his or her death, entitled to a state pension payable at the transitional rate, and
  - (d) that transitional rate exceeded the full rate of the state pension.
- (2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner exceeded the full rate of the state pension immediately before the death.
- 6 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
- (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the pensioner was under pensionable age when the spouse or civil partner died,
  - (c) the spouse or civil partner was, immediately before his or her death, entitled to a state pension payable at the transitional rate,
  - (d) that transitional rate exceeded the full rate of the state pension, and
  - (e) the pensioner did not marry or form a civil partnership after the death and before reaching pensionable age.
- (2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner would have exceeded the full rate of the state pension if he or she had been alive on the day on which the pensioner reached pensionable age.

- 
- 7 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
- (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the pensioner was over pensionable age when the spouse or civil partner died,
  - (c) the spouse or civil partner was under pensionable age when he or she died but would have been entitled to a state pension payable at the transitional rate if he or she had reached pensionable age on the day of the death, and
  - (d) that transitional rate would have exceeded the full rate of the state pension.
- (2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner would have exceeded the full rate of the state pension if he or she had reached pensionable age on the day of the death.
- 8 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if –
- (a) the marriage took place or the civil partnership was formed before the commencement date,
  - (b) the pensioner was under pensionable age when the spouse or civil partner died,
  - (c) the spouse or civil partner died on or after the commencement date,
  - (d) the spouse or civil partner was under pensionable age when he or she died,
  - (e) the spouse or civil partner would have been entitled to a state pension payable at the transitional rate if he or she had reached pensionable age on the same day as the pensioner,
  - (f) that transitional rate would have exceeded the full rate of the state pension, and
  - (g) the pensioner did not marry or form a civil partnership after the death and before reaching pensionable age.
- (2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner would have exceeded the full rate of the state pension if he or she had reached pensionable age on the same day as the pensioner.

### *Supplementary*

- 9 When determining entitlement to, or calculating, an inherited amount under this Schedule based on entitlement to an old state pension or a state pension under this Part of this Act ignore –
- (a) any requirement to make a claim for that pension;
  - (b) any provision suspending payment of, or disqualifying a person from receiving, any amount of that pension.

## SCHEDULE 4

## Section 7

## SURVIVOR'S PENSION UNDER SECTION 7: UP-RATING

*Introduction*

- 1 This Schedule sets out how to up-rate the rate of a person's state pension under section 7.
- 2 In this Schedule a reference to the rate of a person's state pension is to the rate –
  - (a) ignoring any reduction under section 7(4) (in the case of a state pension under section 7),
  - (b) taking into account any reduction under section 14 (in the case of a state pension under section 4), and
  - (c) ignoring any increase under section 17.
- 3 In this Schedule a reference to “the amount of any state pension that has priority” means the rate of any state pension to which the person is entitled under section 2, 4 or 11.

*Rate of section 7 pension, when added to any priority pension, is less than the full rate*

- 4 (1) The rate of the person's state pension under section 7 is to be increased under this paragraph if, when added to the amount of any state pension that has priority, it is equal to or less than the full rate of the state pension.
- (2) If at any time the full rate is increased, the rate of the person's state pension under section 7 is increased (at that time) by the same percentage as the increase in the full rate.

*Rate of section 7 pension, when added to any priority pension, straddles the full rate*

- 5 (1) The rate of the person's state pension under section 7 is to be increased under this paragraph if –
  - (a) the amount of any state pension that has priority is less than the full rate of the state pension, but
  - (b) the rate of the state pension under section 7, when added to the amount of any state pension that has priority, exceeds the full rate.
- (2) If at any time the full rate of the state pension is increased, the rate of the person's state pension under section 7 is increased (at that time) by an amount equal to the appropriate percentage of the shortfall immediately before that time.
- (3) If at any time an order under section 151A of the Administration Act comes into force, the rate of the person's state pension under section 7 is increased (at that time) by an amount equal to the appropriate percentage of the excess immediately before the order comes into force.
- (4) In this paragraph –
 

“the appropriate percentage” –

  - (a) in sub-paragraph (2), means the percentage by which the full rate is increased;
  - (b) in sub-paragraph (3), means the percentage specified in the order;

“the excess” means the amount by which the rate of the state pension under section 7, when added to the amount of any state pension that has priority, exceeds the full rate;

“the shortfall” means the amount by which the amount of any state pension that has priority is less than the full rate.

*Priority pension alone is equal to or higher than the full rate*

- 6 (1) The rate of the person’s state pension under section 7 is to be increased under this paragraph if the amount of any state pension that has priority is equal to or higher than the full rate of the state pension.
- (2) If at any time an order under section 151A of the Administration Act comes into force, the rate of the person’s state pension under section 7 is increased (at that time) by the percentage specified in the order.

## SCHEDULE 5

Section 9

### SURVIVOR’S PENSION UNDER SECTION 9: INHERITED DEFERRAL AMOUNT

#### *Introduction*

- 1 This Schedule –
  - (a) sets out the circumstances in which a person (the “pensioner”) is entitled to an inherited deferral amount for the purpose of section 9, and
  - (b) determines that amount.

*Dead spouse or civil partner entitled to old state pension with deferral increase*

- 2 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited deferral amount under this paragraph if –
  - (a) the spouse or civil partner was entitled to an old state pension with an increase under paragraph 1 or 2A of Schedule 5 to the Contributions and Benefits Act, and
  - (b) the pensioner would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act: (i) the words “before the new state pension introduction date” were omitted, and (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 27 of this Act.
- (2) The inherited deferral amount is equal to the amount by which the weekly rate of the old state pension for the pensioner would have been increased under paragraph 4 of Schedule 5 to the Contributions and Benefits Act on the day on which the pensioner became entitled to the inherited deferral amount.
- (3) For the purposes of calculating the amount of that increase, paragraph 4(1A) of Schedule 5 to the Contributions and Benefits Act has effect as if after the words “apart from” (in each place) there were inserted “this paragraph and”.

*Dead spouse or civil partner’s entitlement to old state pension deferred at time of death*

- 3 (1) A pensioner whose spouse or civil partner has died is entitled to an inherited deferral amount under this paragraph if –
- (a) the spouse or civil partner’s entitlement to an old state pension was deferred when he or she died, and
  - (b) the pensioner would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act: (i) the words “before the new state pension introduction date” were omitted, and (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 27 of this Act.
- (2) The inherited deferral amount is equal to the amount by which the weekly rate of the old state pension for the pensioner would have been increased under paragraph 4 of Schedule 5 to the Contributions and Benefits Act on the day on which the pensioner became entitled to the inherited deferral amount.
- (3) For the purposes of calculating the amount of that increase –
- (a) a pensioner who is not entitled to a choice under section 8 is to be treated as having met the condition in paragraph 4(1)(c) of Schedule 5 to the Contributions and Benefits Act,
  - (b) a pensioner who has chosen under section 8 to be paid a state pension under section 9 is to be treated as having met the condition in paragraph 4(1)(b) of Schedule 5 to the Contributions and Benefits Act, and
  - (c) paragraph 4(1A) of Schedule 5 to the Contributions and Benefits Act has effect as if after the words “apart from” (in each place) there were inserted “this paragraph and”.
- (4) In this paragraph “deferred” has the meaning given by section 55(3) of the Contributions and Benefits Act.

*“The relevant provisions” of the Contributions and Benefits Act*

- 4 For the purposes of this Schedule “the relevant provisions” of the Contributions and Benefits Act are those mentioned in section 8(9)(b).

*Supplementary*

- 5 When determining entitlement to, or calculating, an inherited deferral amount under this Schedule based on entitlement to an old state pension ignore –
- (a) any requirement to make a claim for that pension;
  - (b) any provision suspending payment of, or disqualifying a person from receiving, any amount of that pension.



## SCHEDULE 6

Section 11

## REDUCED RATE ELECTIONS: BASIC AMOUNT OF STATE PENSION UNDER SECTION 11

- 1 This Schedule –
  - (a) sets out the circumstances in which a woman is entitled to a basic amount for the purpose of section 11, and
  - (b) determines that basic amount.
- 2 (1) A woman is entitled to a basic amount under this paragraph if she has reached pensionable age and –
  - (a) she is married to a man who has reached pensionable age, or
  - (b) she is in a civil partnership with a woman who has reached that age.
 (2) The basic amount is the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act on the day on which the woman became entitled under this paragraph.
- 3 (1) A woman is entitled to a basic amount under this paragraph if –
  - (a) on reaching pensionable age she is not married or in a civil partnership but she has been married or in a civil partnership before, or
  - (b) on reaching pensionable age she was married or in a civil partnership and the marriage or civil partnership has come to an end (because of the death of her husband or civil partner or otherwise).
 (2) The basic amount is the amount of the basic pension specified in section 44(4) of the Contributions and Benefits Act on the day on which the woman became entitled under this paragraph.
- 4 A woman who is entitled to a basic amount under paragraph 3 is not entitled to a basic amount under paragraph 2.

## SCHEDULE 7

Section 12

## REDUCED RATE ELECTIONS: EFFECT ON RATE OF SECTION 4 PENSION

*Introduction*

- 1 This Schedule modifies the rules about the transitional rate of the state pension for a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period (and expressions used in this paragraph have the same meaning as in section 12).

*Increased transitional rate for woman married to man over pensionable age etc*

- 2 (1) This paragraph applies to the woman if on reaching pensionable age –
  - (a) she is married to a man who has reached pensionable age, or
  - (b) she is in a civil partnership with a woman who has reached that age.
 (2) The transitional rate of the state pension for the woman is –
  - (a) the rate determined for her under section 5(1) or (2), or
  - (b) if higher, a weekly rate equal to the modified amount for her pre-commencement qualifying years alone.

- (3) The modified amount for the woman’s pre-commencement qualifying years alone is the amount that would be calculated under Schedule 1 for her pre-commencement qualifying years alone if the basic pension in any Category A retirement pension calculated for her for the purposes of paragraph 3 of that Schedule were equal to the basic Category B amount.
- (4) “The basic Category B amount” is the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act on the commencement date.
- (5) To find out what happens if the marriage or civil partnership comes to an end, see paragraph 4.

*Increased transitional rate for widows or divorcees etc*

- 3
  - (1) This paragraph applies to the woman if on reaching pensionable age she is not married or in a civil partnership but she has been married or in a civil partnership before.
  - (2) The transitional rate of the state pension for the woman is –
    - (a) the rate determined for her under section 5(1) or (2), or
    - (b) if higher, a weekly rate equal to the modified amount for her pre-commencement qualifying years alone.
  - (3) The modified amount for the woman’s pre-commencement qualifying years alone is the amount that would be calculated under Schedule 1 for her pre-commencement qualifying years alone if the basic pension in any Category A retirement pension calculated for her for the purposes of paragraph 3 of that Schedule were equal to the full amount of the basic pension.
  - (4) “The full amount of the basic pension” is the amount of the basic pension specified in section 44(4) of the Contributions and Benefits Act on the commencement date.

*Recalculation of transitional rate where circumstances change*

- 4
 

If the woman is married or in a civil partnership on reaching pensionable age but the marriage or civil partnership comes to an end (because of the death of her husband or civil partner or otherwise) –

  - (a) her transitional rate is to be recalculated applying paragraph 3(2), and
  - (b) Schedule 2 (up-rating) applies as if the recalculated rate had been the woman’s transitional rate on the day on which she reached pensionable age.
- 5
  - (1) If neither of paragraphs 2 and 3 apply to the woman but she subsequently comes within paragraph (a) or (b) of paragraph 2(1) –
    - (a) her transitional rate is to be recalculated applying paragraph 2(2), and
    - (b) Schedule 2 (up-rating) applies as if the recalculated rate had been the woman’s transitional rate on the day on which she reached pensionable age.
  - (2) But the woman’s rate is not to be recalculated under sub-paragraph (1) if it has already been recalculated under paragraph 4.

- 6 Nothing in paragraph 4 or 5 affects –
- (a) the amount of state pension to which a woman is entitled for periods before that paragraph applies to her, or
  - (b) the amount of any increase under section 17 in a case where the period for which the woman’s state pension is deferred has ended before that paragraph applies to her.

## SCHEDULE 8

Section 13

### PENSION SHARING: APPROPRIATE WEEKLY RATE UNDER SECTION 13

#### *Introduction*

- 1 This Schedule sets out the appropriate weekly rate of a person’s state pension under section 13.

#### *Appropriate weekly rate for pensioner with old state scheme pension credit*

- 2 (1) This paragraph sets out the appropriate weekly rate if the person is entitled to a state pension under section 13 because of an old state scheme pension credit.
- (2) If the person became entitled to the old state scheme pension credit in or after the final relevant year, the appropriate weekly rate is a weekly rate equal to the person’s notional rate.
- (3) If the person became entitled to the old state scheme pension credit before the final relevant year, the appropriate weekly rate is a weekly rate equal to the person’s notional rate multiplied by the appropriate revaluation percentage.
- (4) For the purposes of sub-paragraphs (2) and (3), a person’s “notional rate” is the weekly rate of a notional pension under section 13 the cash equivalent of which would, on the valuation day, have been equal to the amount of the old state scheme pension credit.
- (5) For the purposes of sub-paragraph (4) assume that the notional pension becomes payable on the later of –
- (a) the day on which the person reaches pensionable age, and
  - (b) the valuation day.
- (6) The “appropriate revaluation percentage” is the percentage specified, in relation to earnings factors for the tax year in which the person became entitled to the old state scheme pension credit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (7) In this paragraph –
- “final relevant year” means the tax year immediately before that in which the person reaches pensionable age;
  - “valuation day” means the day on which the person became entitled to the old state scheme pension credit.

*Appropriate weekly rate for pensioner with new state scheme pension credit*

- 3 (1) This paragraph sets out the appropriate weekly rate if the person is entitled to a state pension under section 13 because of a new state scheme pension credit.
- (2) If the person was over pensionable age when he or she became entitled to the new state scheme pension credit, the appropriate weekly rate is a weekly rate equal to the amount of the credit.
- (3) If the person was under pensionable age when he or she became entitled to the new state scheme pension credit, the appropriate weekly rate is a weekly rate equal to the amount of the credit multiplied by the appropriate revaluation percentage.
- (4) The “appropriate revaluation percentage” is the percentage specified, in relation to the tax year in which the person became entitled to the new state scheme pension credit, by the last order under section 148AD of the Administration Act to come into force before the person reached pensionable age.

*Supplementary*

- 4 (1) Regulations may make provision about the calculation and verification of notional rates under paragraph 2.
- (2) The regulations may, in particular, provide—
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, or
  - (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person specified in the regulations.

## SCHEDULE 9

## Section 13

## PENSION SHARING: UP-RATING STATE PENSION UNDER SECTION 13

*Introduction*

- 1 This Schedule sets out how to up-rate the rate of a person’s state pension under section 13.
- 2 In this Schedule a reference to the rate of a person’s state pension is to the rate—
- (a) ignoring any reduction under section 7(4) (in the case of a state pension under section 7),
  - (b) taking into account any reduction under section 14 (in the case of a state pension under section 4), and
  - (c) ignoring any increase under section 17.
- 3 (1) In this Schedule “the total amount of any state pension that has priority”, in relation to a person’s state pension under section 13, means the sum of—
- (a) the rate of any state pension to which the person is entitled under section 2, 4 or 11,

- (b) the rate of any state pension to which the person is entitled under section 7, and
  - (c) the rate of any earlier state pension to which the person is entitled under section 13 (see sub-paragraph (2)).
- (2) Where a person is entitled to two or more state pensions under section 13 because he or she has become entitled to two or more state scheme pension credits, a pension arising because of an earlier credit is an “earlier” state pension for the purposes of sub-paragraph (1)(c).

*Rate of section 13 pension, when added to any priority pension, is less than the full rate*

- 4 (1) The rate of the person’s state pension under section 13 is to be increased under this paragraph if, when added to the total amount of any state pension that has priority, it is equal to or less than the full rate of the state pension.
- (2) If at any time the full rate is increased, the rate of the person’s state pension under section 13 is increased (at that time) by the same percentage as the increase in the full rate.

*Rate of section 13 pension, when added to any priority pension, straddles the full rate*

- 5 (1) The rate of the person’s state pension under section 13 is to be increased under this paragraph if—
- (a) the total amount of any state pension that has priority is less than the full rate of the state pension, but
  - (b) the rate of the state pension under section 13, when added to the total amount of any state pension that has priority, exceeds the full rate.
- (2) If at any time the full rate of the state pension is increased, the rate of the person’s state pension under section 13 is increased (at that time) by an amount equal to the appropriate percentage of the shortfall immediately before that time.
- (3) If at any time an order under section 151A of the Administration Act comes into force, the rate of the person’s state pension under section 13 is increased (at that time) by an amount equal to the appropriate percentage of the excess immediately before the order comes into force.
- (4) In this paragraph—
- “the appropriate percentage”—
    - (a) in sub-paragraph (2), means the percentage by which the full rate is increased;
    - (b) in sub-paragraph (3), means the percentage specified in the order;
  - “the excess” means the amount by which the rate of the state pension under section 13, when added to the total amount of any state pension that has priority, exceeds the full rate;
  - “the shortfall” means the amount by which the total amount of any state pension that has priority is less than the full rate.

*Priority pension alone is equal to or higher than the full rate*

- 6 (1) The rate of the person's state pension under section 13 is to be increased under this paragraph if the total amount of any state pension that has priority is equal to or higher than the full rate of the state pension.
- (2) If at any time an order under section 151A of the Administration Act comes into force, the rate of the person's state pension under section 13 is increased (at that time) by the percentage specified in the order.

## SCHEDULE 10

Section 14

### PENSION SHARING: APPROPRIATE WEEKLY REDUCTION UNDER SECTION 14

#### *Introduction*

- 1 This Schedule sets out the appropriate weekly reduction in the rate of a person's state pension for the purposes of section 14.

#### *Appropriate weekly reduction for person subject to old state scheme pension debit*

- 2 (1) This paragraph sets out the appropriate weekly reduction if the person is subject to an old state scheme pension debit.
- (2) If the person became subject to the old state scheme pension debit in or after the final relevant year, the appropriate weekly reduction is an amount equal to the person's notional rate.
- (3) If the person became subject to the old state scheme pension debit before the final relevant year, the appropriate weekly reduction is an amount equal to the person's notional rate multiplied by the appropriate revaluation percentage.
- (4) For the purposes of sub-paragraphs (2) and (3), a person's "notional rate" is the weekly rate of a notional pension under section 4 the cash equivalent of which would, on the valuation day, have been equal to the amount of the old state scheme pension debit.
- (5) For the purposes of sub-paragraph (4) assume that the notional pension becomes payable on the later of –
  - (a) the day on which the person reaches pensionable age, and
  - (b) the valuation day.
- (6) The "appropriate revaluation percentage" is the percentage specified, in relation to earnings factors for the tax year in which the person became subject to the old state scheme pension debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (7) In this paragraph –
 

"final relevant year" means the tax year immediately before that in which the person reaches pensionable age;

"valuation day" means the day on which the person became subject to the old state scheme pension debit.

*Appropriate weekly reduction for person subject to new state scheme pension debit*

- 3 (1) This paragraph sets out the appropriate weekly reduction if the person is subject to a new state scheme pension debit.
- (2) If the person was over pensionable age when he or she became subject to the new state scheme pension debit, the appropriate weekly reduction is an amount equal to the amount of the debit.
- (3) If the person was under pensionable age when he or she became subject to the new state scheme pension debit, the appropriate weekly reduction is an amount equal to the amount of the debit multiplied by the appropriate revaluation percentage.
- (4) The “appropriate revaluation percentage” is the percentage specified, in relation to the tax year in which the person became subject to the new state scheme pension debit, by the last order under section 148AD of the Administration Act to come into force before the person reached pensionable age.

*Supplementary*

- 4 (1) Regulations may make provision about the calculation and verification of notional rates under paragraph 2.
- (2) The regulations may, in particular, provide—
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, or
  - (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person specified in the regulations.

## SCHEDULE 11

## Section 15

## PENSION SHARING: AMENDMENTS

*Family Law (Scotland) Act 1985 (c. 37)*

- 1 In section 27 of the Family Law (Scotland) Act 1985 (interpretation), in subsection (1), in the definition of “relevant state scheme rights”—
- (a) before paragraph (a) insert—
    - “(za) shareable new state scheme rights, within the meaning given by section 47(3) of the Welfare Reform and Pensions Act 1999 or corresponding Northern Ireland legislation;”
  - (b) in paragraph (b) after “55A” insert “or 55AA”.

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

- 2 The Contributions and Benefits Act is amended as follows.
- 3 In section 21 (contribution conditions), in subsection (1), after “section 55A” insert “or 55AA”.

- 
- 4 In section 43 (persons entitled to more than one retirement pension), in subsection (6), after “section 55A” insert “or 55AA”.
- 5 (1) Section 55A (shared additional pension) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) A person is entitled to a shared additional pension under this section if –
- (a) the person attained pensionable age before the new state pension introduction date, and
- (b) the person is entitled to an old state scheme pension credit.”
- (3) In subsections (2) and (3), after “shared additional pension” insert “under this section”.
- (4) In subsections (3), (4), (5) and (7) before “state scheme pension credit” (in each place) insert “old”.
- (5) At the end of the heading insert “because of an old state scheme pension credit”.
- 6 After section 55A insert –
- “55AA Shared additional pension because of a new state scheme pension credit**
- (1) A person is entitled to a shared additional pension under this section if –
- (a) the person reached pensionable age before the new state pension introduction date, and
- (b) the person is entitled to a new state scheme pension credit.
- (2) A person’s entitlement to a shared additional pension under this section continues throughout his or her life.
- (3) The weekly rate of a shared additional pension under this section is equal to the amount of the new state scheme pension credit.
- (4) In this section “new state scheme pension credit” means a credit under section 49A(2)(b) of the Welfare Reform and Pensions Act 1999.”
- 7 (1) Section 55B (reduction of additional pension in Category A retirement pension: pension sharing) is amended as follows.
- (2) In subsection (1)(a), for “a” substitute “an old”.
- (3) In subsection (5), for “55A above” substitute “55A or 55AA (as the case may be)”.
- (4) In subsection (8), in the definition of “state scheme pension debit”, before “state” insert “old”.

*Social Security Administration Act 1992 (c. 5)*

- 8 In the Administration Act, after section 148AC (inserted by Schedule 12 to



this Act) insert—

**“148AD Revaluation of new state scheme pension debits and credits**

- (1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place.
- (2) The Secretary of State must make an order under this section if on a review it appears to the Secretary of State that, having regard to earlier orders under this section, relevant debits or credits have not, during the review period, maintained their value in relation to the general level of prices.
- (3) An order under this section is an order directing that, for the purposes of paragraph 3 of each of Schedules 8 and 10 to the Pensions Act 2013, the amount of the relevant debits or credits are to be increased by such percentage of their amount, apart from earlier orders under this section, as the Secretary of State thinks necessary to make up the fall in their value during the review period together with other falls in their value which had been made up by earlier orders under this section.
- (4) This section does not require the Secretary of State to direct an increase if it appears to the Secretary of State that the increase would be inconsiderable.
- (5) 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.
- (6) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit.
- (7) In this section “relevant debits or credits” means—
  - (a) a debit under section 49A(2)(a) of the Welfare Reform and Pensions Act 1999 to which a person became subject before the tax year to which the review relates, or
  - (b) a credit under section 49A(2)(b) of the Welfare Reform and Pensions Act 1999 to which a person became entitled before the tax year to which the review relates.”

*Welfare Reform and Pensions Act 1999 (c. 30)*

9 The Welfare Reform and Pensions Act 1999 is amended as follows.

10 (1) Section 47 (shareable state scheme rights) is amended as follows.

(2) After subsection (1) insert—

“(1A) For the purposes of this Chapter, a person’s shareable state scheme rights are—

- (a) the person’s shareable old state scheme rights;
- (b) the person’s shareable new state scheme rights.”

(3) In subsection (2)—

- (a) after “shareable” insert “old”;

- 
- (b) in paragraph (b), after “55A” insert “or 55AA”.
  - (4) After subsection (2) insert –
    - “(3) For the purposes of this Chapter, a person’s shareable new state scheme rights are the person’s entitlement, or prospective entitlement, to the excess amount in a state pension under section 4 of the Pensions Act 2013.
    - (4) “The excess amount”, in relation to a state pension under section 4 of the Pensions Act 2013, means any amount by which the rate of the pension exceeds the full rate of the state pension (see section 3 of that Act).
    - (5) In determining the rate of a state pension under section 4 of the Pensions Act 2013 for the purposes of this Chapter, ignore Schedule 7 to that Act (reduced rate elections: effect on rate of section 4 pension).”
  - 11 In section 48 (activation of benefit sharing), in subsection (1), for the words from the beginning to “shareable state scheme rights” substitute “Section 49 or 49A applies where any of the following has taken effect in relation to a person’s shareable state scheme rights”.
  - 12 (1) Section 49 (creation of state scheme pension debits and credits) is amended as follows.
    - (2) For subsection (1) substitute –
      - “(A1) This section applies if –
        - (a) the transferor is in the old state pension system, or
        - (b) the transferor is in the new state pension system but the transfer day was before the new state pension introduction date.
      - (1) Where this section applies because of a relevant order or provision –
        - (a) the transferor is subject, for the purposes of the relevant state pension legislation, to a debit of the appropriate amount, and
        - (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of that amount.”
    - (3) In subsection (2), after “shareable” insert “old”.
    - (4) In subsection (3)(b), for “relevant” substitute “shareable old”.
    - (5) After subsection (5) insert –
      - “(5A) The fact that a person who reaches pensionable age on or after the new state pension introduction date is not entitled to a pension of the kind mentioned in section 47(2)(a) or (b) does not affect the calculation under this section of the appropriate amount by reference to the transferor’s prospective entitlement, immediately before the transfer day, to a pension of that kind.”
    - (6) In subsection (6), at the appropriate place insert –
      - ““the relevant state pension legislation” –
        - (a) in relation to a transferor or transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and

- 
- (b) in relation to a transferor or transferee in the new state pension system, means Part 1 of the Pensions Act 2013.”
  - (7) At the end of the heading insert “: transferor in old state pension system or pension sharing activated before new state pension introduction date”.
- 13 After section 49 insert –
- “49A Creation of debits and credits: transferor in new state pension system and sharing activated on or after new state pension introduction date**
- (1) This section applies if –
    - (a) the transferor is in the new state pension system, and
    - (b) the transfer day is the new state pension introduction date or any later date.
  - (2) Where this section applies because of a relevant order or provision –
    - (a) the transferor is subject, for the purposes of section 14 of the Pensions Act 2013, to a debit of the shared weekly amount, and
    - (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of the shared weekly amount.
  - (3) The shared weekly amount is the specified percentage of the excess amount of the transferor’s state pension under section 4 of the Pensions Act 2013 as at the transfer day.
  - (4) For the purposes of calculating the shared weekly amount –
    - (a) a transferor who is under pensionable age on the transfer day is to be treated as having reached pensionable age and to have become entitled to the state pension under section 4 of the Pensions Act 2013 on the transfer day;
    - (b) a transferor who has reached pensionable age on the transfer day but who has not yet become entitled to the state pension under section 4 of the Pensions Act 2013 is to be treated as having become entitled to the pension on that day.
  - (5) In this section –
    - “the excess amount” has the meaning given by section 47(4);
    - “relevant order or provision” means the order or provision by virtue of which this section applies (see section 48);
    - “the relevant state pension legislation” –
      - (a) in relation to a transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and
      - (b) in relation to a transferee in the new state pension system, means Part 1 of the Pensions Act 2013.
    - “specified percentage” means the percentage specified in the relevant order or provision for the purposes of subsection (3);
    - “transfer day” means the day on which the relevant order or provision takes effect;
    - “transferor” means the person to whose rights the relevant order or provision relates;

“transferee” means the person for whose benefit the relevant order or provision is made.”

- 14 (1) Section 51 (interpretation) is amended as follows.
  - (2) The current text becomes subsection (1).
  - (3) In that subsection –
    - (a) at the appropriate place insert –
 

““the new state pension introduction date” means the date on which section 1 of the Pensions Act 2013 came into force;”;
    - (b) for the definition of “shareable state scheme rights” substitute –
 

““shareable state scheme rights”, and related expressions, have the meaning given by section 47;”.
  - (4) After that subsection insert –
 

“(2) For the purposes of this Chapter –

    - (a) a person is in the old state pension system if the person reached pensionable age before the new state pension introduction date (or would have done so if the person had lived until pensionable age), and
    - (b) a person is in the new state pension system if the person reached pensionable age on or after the new state pension introduction date (or will do so if the person lives until pensionable age).”

*State Pension Credit Act 2002 (c. 16)*

- 15 In section 16 of the State Pension Credit Act 2002 (meaning of “retirement pension income”), in subsection (1), for paragraph (b) substitute –
  - “(b) a shared additional pension payable under –
    - (i) section 55A of either of those Acts, or
    - (ii) section 55AA of the Contributions and Benefits Act or any corresponding provision under the law of Northern Ireland;”.

*Gender Recognition Act 2004 (c. 7)*

- 16 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions), in paragraph 9 –
  - (a) in sub-paragraphs (1)(a) and (3), after “section 55A” insert “or 55AA”;
  - (b) after sub-paragraph (4) insert –
 

“(5) References in this paragraph to section 55AA of the 1992 Act are to –

    - (a) section 55AA of the Social Security Contributions and Benefits Act, or
    - (b) any corresponding provision under the law of Northern Ireland.”

## SCHEDULE 12

Section 23

## STATE PENSION: AMENDMENTS

## PART 1

## AMENDMENTS TO DO WITH NEW STATE PENSION SYSTEM

*Forfeiture Act 1982 (c. 34)*

- 1 In section 4 of the Forfeiture Act 1982 (Upper Tribunal to decide whether forfeiture rule applies to social security benefits), in the definition of “relevant enactment” in subsection (5), after the entry relating to the Pension Schemes Act 1993 insert –
- “Part 1 of the Pensions Act 2013,”.

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

- 2 The Contributions and Benefits Act is amended as follows.
- 3 (1) Section 22 (earnings factors) is amended as follows.
- (2) In subsection (2) –
- (a) in paragraph (a), omit the final “and”;
  - (b) after paragraph (b) insert “; and
  - (c) establishing entitlement to a state pension under Part 1 of the Pensions Act 2013 and, where relevant, calculating the rate of a state pension under that Part.”
- (3) After subsection (5) insert –
- “(5ZA) Regulations may provide for crediting –
- (a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or
  - (b) for any earlier tax year, contributions of any class,
- for the purpose of bringing an earnings factor for that tax year to a figure which will make that year a “qualifying year”, “pre-commencement qualifying year” or “post-commencement qualifying year” of a person for the purposes of Part 1 of the Pensions Act 2013 (see sections 2(4) and 4(4) of that Act).”

*Social Security Administration Act 1992 (c. 5)*

- 4 The Administration Act is amended as follows.
- 5 In section 1 (entitlement to benefit dependent on claim), in subsection (4), after paragraph (za) insert –
- “(zb) state pension or a lump sum under Part 1 of the Pensions Act 2013;”.
- 6 In section 5 (regulations about claims for and payments of benefits), in subsection (2), after paragraph (za) insert –
- “(zb) state pension or a lump sum under Part 1 of the Pensions Act 2013;”.
- 7 In section 73 (overlapping benefits - general) –

- 
- (a) in subsection (1), after “adjusting” insert “state pension under Part 1 of the Pensions Act 2013 or”;
- (b) in subsection (4), before paragraph (a) insert –  
     “(za) state pension under Part 1 of the Pensions Act 2013;”.
- 8 In section 121DA (interpretation of Part 6), in subsection (1), after paragraph (hk) insert –  
     “(hl) Part 1 of the Pensions Act 2013;”.
- 9 In section 122B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “Part 4 of that Act” insert “, Part 1 of the Pensions Act 2013”.
- 10 In section 124 (age, death and marriage), in subsection (1), after paragraph (ae) insert –  
     “(af) of the provisions of Part 1 of the Pensions Act 2013; and”.
- 11 In section 125 (regulations as to notification of deaths), in subsection (1), after “Part 4 of that Act” insert “, Part 1 of the Pensions Act 2013”.
- 12 After section 148AB insert –

**“148AC Revaluation for transitional pensions under Pensions Act 2013**

- (1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place during the review period.
- (2) In this section “the review period” means the period since the beginning of the tax year in which section 1 of the Pensions Act 2013 (state pension) came into force.
- (3) If on a review it appears to the Secretary of State that the general level of prices has increased during the review period, the Secretary of State must make an order specifying the percentage of the increase.
- (4) The percentage specified in the order is the “revaluing percentage” for the purposes of paragraph 6(5) of Schedule 1 to the Pensions Act 2013.
- (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 paragraph 6 of Schedule 1 to the Pensions Act 2013 would be inconsiderable.
- (6) 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.
- (7) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit.”
- 13 In section 150 (annual up-rating of benefits), in subsection (1), after paragraph (o) insert –  
     “(p) which are the increases in the rates of state pensions under section 17 of the Pensions Act 2013;”.

- 
- 14 In section 150A (annual up-rating), in subsection (1), before paragraph (a) insert –
- “(za) the amount specified in regulations under section 3(1) of the Pensions Act 2013 (full rate of state pension);”.
- 15 In section 151 (up-rating: supplementary), in subsection (2) –
- (a) for “(dza) or (e)” substitute “(dza), (e) or (p)”;
- (b) after “order and” insert “ –
- (a) ”;
- (c) at the end insert “, and
- (b) in the case of the sums mentioned in subsection (1)(p) of that section, shall apply only in relation to sums calculated under section 17 of the Pensions Act 2013 by reference to periods which have ended before the coming into force of the order.”
- 16 After section 151 insert –

**“151A Up-rating of transitional state pensions under Pensions Act 2013**

- (1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place.
- (2) If on a review it appears to the Secretary of State that the general level of prices has increased during the review period, the Secretary of State must make an order specifying a percentage by which the amounts mentioned in the following provisions of the Pensions Act 2013 are to be increased –
  - (a) section 9;
  - (b) paragraph 4(3) of Schedule 2;
  - (c) paragraphs 5(3) and 6 of Schedule 4;
  - (d) paragraphs 5(3) and 6 of Schedule 9.
- (3) The percentage specified in the order must not be less than the percentage by which the general level of prices has increased during the review period.
- (4) This section 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 the amounts referred to in subsection (2) would be inconsiderable.
- (5) An order under this section must be framed so as to bring the increase in question into force in the week beginning with the first Monday in the tax year following that in which the order is made.
- (6) The Secretary of State must lay with a draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary’s opinion on the likely effect on the National Insurance Fund.
- (7) If a draft order under this section is combined with a draft up-rating order under section 150 or 150A, the report required by virtue of subsection (6) may be combined with that required by virtue of section 150(8) or 150A(5).

- 
- (8) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit.”
- 17 (1) Section 155A (power to anticipate pensions up-rating order) is amended as follows.
- (2) In subsection (1)(a) –
- (a) for “150 or 150A” substitute “150, 150A or 151A”;
- (b) in sub-paragraph (i), after “by way of” insert “state pension under the Pensions Act 2013,”.
- (3) In subsection (2), after “an award is made of” insert “a state pension,”.
- 18 (1) Section 163 (general financial arrangements) is amended as follows.
- (2) In subsection (1), before paragraph (a) insert –
- “(za) state pension and lump sums under Part 1 of the Pensions Act 2013;”.
- (3) In subsection (2)(a), after “Contributions and Benefits Act” insert “, Part 1 of the Pensions Act 2013”.
- (4) In subsection (3)(b), after “that Act” insert “or Part 1 of the Pensions Act 2013”.
- 19 In section 170 (Social Security Advisory Committee), in subsection (5) –
- (a) in the definition of “the relevant enactments”, after paragraph (al) insert –
- “(am) the provisions of Part 1 of the Pensions Act 2013;”;
- (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (al) insert –
- “(am) any provisions in Northern Ireland which correspond to the provisions of Part 1 of the Pensions Act 2013;”.
- 20 (1) Section 179 (reciprocal agreements) is amended as follows.
- (2) In subsection (3)(a), after “Part 4 of that Act” insert “, Part 1 of the Pensions Act 2013”.
- (3) In subsection (4), after paragraph (ah) insert –
- “(ai) to Part 1 of the Pensions Act 2013;”.
- (4) In subsection (5) –
- (a) after “Act 2007” insert “or Part 1 of the Pensions Act 2013”;
- (b) after paragraph (ac) insert –
- “(ad) state pension under Part 1 of the Pensions Act 2013;”.
- 21 In section 187 (inalienability), in subsection (1), after paragraph (za) insert –
- “(zb) state pension under Part 1 of the Pensions Act 2013;”.
- 22 In section 190 (parliamentary control of orders and regulations), in subsection (1)(a) after “150A,” insert “151A,”.
- 23 In section 191 (interpretation), in the definition of “benefit”, after “universal credit,” insert “state pension under Part 1 of the Pensions Act 2013,”.



*Social Security Act 1993 (c. 3)*

- 24 In section 2 of the Social Security Act 1993 (payments into National Insurance Fund out of money provided by Parliament), in subsection (4)(a), after “paragraphs” insert “(za),”.

*Pensions Act 1995 (c. 26)*

- 25 In Schedule 4 to the Pensions Act 1995 (pensionable age), in paragraph 1, for “and Part 1 of the Welfare Reform Act 2007” substitute “, Part 1 of the Welfare Reform Act 2007 and the Pensions Act 2013”.

*Social Security Act 1998 (c. 14)*

- 26 The Social Security Act 1998 is amended as follows.
- 27 In section 2 (use of computers), in subsection (2) –
- (a) in paragraph (k), omit the final “or”;
  - (b) after paragraph (l) insert –
    - “(m) Part 1 of the Pensions Act 2013;”.
- 28 In section 8 (decisions by Secretary of State) –
- (a) in subsection (3), after paragraph (aa) insert –
    - “(ab) state pension or a lump sum under Part 1 of the Pensions Act 2013;”;
  - (b) in subsection (4), for “or Part 4 of that Act” substitute “, Part 4 of that Act or Part 1 of the Pensions Act 2013”.
- 29 In section 11 (regulations with respect to decisions), in subsection (3), in the definition of “the current legislation”, for “and Part 4 of that Act” substitute “, Part 4 of that Act and Part 1 of the Pensions Act 2013”.
- 30 In section 27 (restrictions on entitlement to benefit in certain cases of error), in subsection (7), in the definition of “benefit”, after paragraph (f) insert –
  - “(g) state pension or a lump sum under Part 1 of the Pensions Act 2013.”
- 31 In section 28 (correction of errors in decisions etc), in subsection (3) –
- (a) in paragraph (h), omit the final “or”;
  - (b) after paragraph (i) insert “or
    - (j) Part 1 of the Pensions Act 2013.”
- 32 In Schedule 3 (decisions against which an appeal lies), after paragraph 6 insert –

*“State pension: prisoners and overseas residents*

- 6A A decision that a state pension under Part 1 of the Pensions Act 2013 is not payable by reason of section 19 of that Act (prisoners).
- 6B A decision that a person is not entitled to increases in the rate of a state pension under Part 1 of the Pensions Act 2013 by reason of regulations under section 20 of that Act (overseas residents).”

*Child Support, Pensions and Social Security Act 2000 (c. 19)*

- 33 (1) Section 42 of the Child Support, Pensions and Social Security Act 2000 (disclosure of state pension information) is amended as follows.
- (2) In subsection (7), after paragraph (a) insert –
- “(aa) the amount of any state pension under Part 1 of the Pensions Act 2013 a present or future entitlement to which has already accrued to that individual;
  - (ab) a projection of the amount of any state pension under Part 1 of the Pensions Act 2013 to which that individual is likely to become entitled, or might become entitled in particular circumstances;”.
- (3) In subsection (11), in the definition of “lump sum”, after “under” insert “section 8 of the Pensions Act 2013 or”.

*Social Security Fraud Act 2001 (c. 11)*

- 34 The Social Security Fraud Act 2001 is amended as follows.
- 35 In section 6A (definitions), in subsection (1) –
- (a) in the definition of “disqualifying benefit”, after paragraph (za) insert –
    - “(zb) state pension or a lump sum under Part 1 of the Pensions Act 2013 or under any provision in Northern Ireland which corresponds to that Part;”;
  - (b) in the definition of “sanctionable benefit”, before paragraph (b) insert –
    - “(aa) state pension or a lump sum under Part 1 of the Pensions Act 2013;”.
- 36 In section 10 (power to supplement and mitigate loss of benefit provisions), in subsection (3), after paragraph (be) insert –
- “(bf) state pension or a lump sum under Part 1 of the Pensions Act 2013 or under any provision in Northern Ireland which corresponds to that Part;”.

*State Pension Credit Act 2002 (c. 16)*

- 37 In section 16 of the State Pension Credit Act 2002 (meaning of “retirement pension income”), in subsection (1), before paragraph (a) insert –
- “(za) a state pension under Part 1 of the Pensions Act 2013 or under any provision in Northern Ireland which corresponds to that Part;”.

*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

- 38 In section 577 of the Income Tax (Earnings and Pensions) Act 2003 (United Kingdom social security pensions), in the definition of “state pension” in subsection (2), before paragraph (a) insert –
- “(za) any provision of Part 1 of the Pensions Act 2013 or any corresponding provision under the law of Northern Ireland;”.

*Gender Recognition Act 2004 (c. 7)*

39 The Gender Recognition Act 2004 is amended as follows.

40 In section 23 of that Act (power to modify statutory provisions) “enactment” includes sections 11 and 12 of, and Schedules 6 and 7 to, this Act or any corresponding provision under the law of Northern Ireland.

41 (1) Schedule 5 (benefits and pensions) is amended as follows.

(2) After paragraph 6 insert –

*“Pension under Part 1 of the Pensions Act 2013*

6A (1) Any question –

(a) whether the person is entitled to a state pension under Part 1 of the Pensions Act 2013 for any period after the certificate is issued, and

(b) (if so) the rate at which the person is so entitled for the period,

is to be decided as if the person’s gender were the acquired gender.

(2) Accordingly, if (immediately before the certificate is issued) the person –

(a) is a woman entitled to a state pension under Part 1 of the Pensions Act 2013, but

(b) has not attained the age of 65,  
the person ceases to be so entitled when it is issued.

(3) And, conversely, if (immediately before the certificate is issued) the person –

(a) is a man who has attained the age at which a woman of the same age attains pensionable age, but

(b) has not attained the age of 65,  
the person is to be treated for the purposes of Part 1 of the Pensions Act 2013 as attaining pensionable age when it is issued.

(4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued.

(5) Paragraph 10 makes provision about deferment of state pensions under Part 1 of the Pensions Act 2013.

(6) In this paragraph a reference to a state pension under Part 1 of the Pensions Act 2013 includes a state pension under any corresponding provision under the law of Northern Ireland.”

(3) In paragraph 7, in sub-paragraph (1), at the end insert “(but this is subject to sub-paragraph (3))”.

(4) In paragraph 10, in sub-paragraph (1), before paragraph (a) insert –

“(za) a state pension under Part 1 of the Pensions Act 2013 or any corresponding provision under the law of Northern Ireland.”.

*Finance (No. 2) Act 2005 (c. 22)*

42 The Finance (No. 2) Act 2005 is amended as follows.

43 (1) Section 8 (meaning of “applicable year of assessment” in section 7) is amended as follows.

(2) In subsection (3), for “subsection (4)” substitute “subsections (4) and (4A)”

(3) After subsection (4) insert –

“(4A) In a case where the social security pension lump sum is a lump sum under section 8 of the Pensions Act 2013 or under any corresponding provision under the law of Northern Ireland, “the first benefit payment day” for the purposes of subsection (2) is the day as from which the lump sum becomes payable.”

44 In section 9 (interpretation), in the definition of “state pension lump sum”, before paragraph (a) insert –

“(za) section 8 of the Pensions Act 2013 or under any corresponding provision under the law of Northern Ireland,”.

*Welfare Reform Act 2012 (c. 5)*

45 In section 96 of the Welfare Reform Act 2012 (benefit cap), in subsection (11), before paragraph (a) insert –

“(za) state pension under Part 1 of the Pensions Act 2013,”.

## PART 2

## AMENDMENTS TO DO WITH OLD STATE PENSION SYSTEM

*Graduated retirement benefit*

46 (1) Section 36 of the National Insurance Act 1965 (graduated retirement benefit), so far as continuing in force, is amended as follows.

(2) In subsection (7), for “has attained pensionable age” substitute “attained pensionable age before the date on which section 1 of the Pensions Act 2013 came into force”.

(3) In subsection (8), in the definition of “retirement pension”, after “any category” insert “under the Social Security Contributions and Benefits Act 1992”.

*Category A retirement pensions*

47 The Contributions and Benefits Act is amended as follows.

48 In section 44(1) (Category A retirement pensions), for paragraph (a) substitute –

“(a) the person attained pensionable age before the new state pension introduction date,”.

49 (1) Section 48 (use of former spouse’s contributions) is amended as follows.

- (2) In subsection (1), after “person” insert “who attained pensionable age before the new state pension introduction date”.
- (3) After subsection (2) insert –
  - “(2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after the new state pension introduction date to be treated as contributions of another person.”

*Category B retirement pensions*

- 50 The Contributions and Benefits Act is amended as follows.
- 51 In section 23A (contributions credits for relevant parents and carers), in subsection (1)(b), after “section 48A” insert “or 48AA”.
- 52 In section 46 (modification of section 45 for calculating additional pension in certain benefits), in subsection (2), omit “48A(4) or” (in both places).
- 53 For section 48A substitute –

**“48A Category B retirement pension for married person or civil partner**

- (1) A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if –
  - (a) the person attained pensionable age before the new state pension introduction date, and
  - (b) the spouse –
    - (i) has attained pensionable age, and
    - (ii) satisfies the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on a man whose wife was born before 6 April 1950.
- (3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if –
  - (a) the person attained pensionable age before the new state pension introduction date, and
  - (b) the contributing civil partner –
    - (i) was born on or after 6 April 1950,
    - (ii) has attained pensionable age, and
    - (iii) satisfies the condition in paragraph 5A of Schedule 3.
- (4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) A person ceases to be entitled to a Category B retirement pension under this section if –
  - (a) the person’s spouse or civil partner dies (but see section 48B), or
  - (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means –

- (a) in a case where the spouse is a man who attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3;
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with the new state pension introduction date or any later tax year.

#### **48AA Category B retirement pension for divorcee or former civil partner**

- (1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if –
  - (a) the person attained pensionable age –
    - (i) before the new state pension introduction date, and
    - (ii) before the marriage was dissolved, and
  - (b) the former spouse –
    - (i) attained pensionable age before the marriage was dissolved, and
    - (ii) satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on a man whose former wife was born before 6 April 1950.
- (3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if –
  - (a) the person attained pensionable age –
    - (i) before the new state pension introduction date, and
    - (ii) before the civil partnership was dissolved, and
  - (b) the former civil partner –
    - (i) was born on or after 6 April 1950,
    - (ii) attained pensionable age before the civil partnership was dissolved, and
    - (iii) satisfied the condition in paragraph 5A of Schedule 3.
- (4) During any period when the person’s former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) During any period after the person’s former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means –
  - (a) in a case where the former spouse was a man who attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3;
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.

- 
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with the new state pension introduction date or any later tax year.
  - (8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.”
- 54 (1) Section 48B (Category B retirement pension for widows and widowers) is amended as follows.
- (2) For subsections (1) to (1A) substitute –
- “(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if –
    - (a) the pensioner attained pensionable age –
      - (i) before the new state pension introduction date, and
      - (ii) before the spouse died, and
    - (b) the spouse satisfied the relevant contribution condition.
  - (1ZA) But subsection (1) does not confer a right to a Category B retirement pension on a man who attained pensionable age before 6 April 2010.
  - (1ZB) In subsection (1)(b) “the relevant contribution condition” means –
    - (a) in a case where the spouse –
      - (i) died before 6 April 2010, or
      - (ii) died on or after that date having attained pensionable age before that date,
 the conditions in paragraph 5 of Schedule 3, and
    - (b) in any other case, the condition in paragraph 5A of Schedule 3.
  - (1A) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if –
    - (a) the pensioner attained pensionable age –
      - (i) on or after 6 April 2010,
      - (ii) before the new state pension introduction date, and
      - (iii) before the civil partner died, and
    - (b) the civil partner satisfied the relevant contribution condition.
  - (1B) In subsection (1A)(b) “the relevant contribution condition” means –
    - (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
    - (b) in any other case, the condition in paragraph 5A of Schedule 3.”
- (3) After subsection (3) insert –
- “(3A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the

deceased for the tax year beginning with the new state pension introduction date or any later tax year.”

(4) For subsection (4) substitute –

“(4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if –

- (a) she attained pensionable age before the new state pension introduction date, and
- (b) the condition in subsection (5) is satisfied.

(4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if –

- (a) he attained pensionable age on or after 6 April 2010 but before the new state pension introduction date, and
- (b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).”

(5) In subsection (6), after “subsection (4)” insert “or (4A)”.

(6) In subsection (7), for “(4)” substitute “(4A)”.

55 (1) Section 48BB (Category B retirement pension: entitlement by reference to widowed parent’s allowance or bereavement allowance where no dependent children) is amended as follows.

(2) In subsection (1), for “who has attained pensionable age” substitute “who attained pensionable age before the new state pension introduction date”.

(3) In subsection (3), for “who has attained pensionable age” substitute “who attained pensionable age before the new state pension introduction date”.

56 (1) Section 48C (Category B retirement pension: general) is amended as follows.

(2) In subsection (3), for “sections 48A(4)(b) and” substitute “section”.

(3) In subsection (4), omit “48A(4),”.

57 (1) Section 51 (Category B retirement pension for widowers) is amended as follows.

(2) In subsection (1), for paragraph (c) substitute –

“(c) before her death she satisfied the relevant contribution condition.”

(3) After subsection (1) insert –

“(1ZA) But subsection (1) does not confer a right to a Category B retirement pension on a man who attained pensionable age on or after 6 April 2010.

(1ZB) In subsection (1)(c) “the relevant contribution condition” means –

- (a) in a case where the wife attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in a case where the wife attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.”



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- (4) In subsection (1A), for paragraph (c) substitute –
- “(c) before that death the deceased civil partner satisfied the relevant contribution condition.”
- (5) After subsection (1A) insert –
- “(1B) But subsection (1A) does not confer a right to a Category B retirement pension on a person who attained pensionable age on or after 6 April 2010.
- “(1C) In subsection (1A)(c) “the relevant contribution condition” means –
- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in a case where the deceased civil partner attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.”
- (6) After subsection (2) insert –
- “(2A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the wife or deceased civil partner for the tax year beginning with the new state pension introduction date or any later tax year.”
- 58 In section 52(3) (special provision for surviving spouses) for “prescribed maximum” substitute “maximum amount specified in regulations”.
- 59 (1) Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.
- (2) In paragraph 5, for sub-paragraph (1) substitute –
- “(1) This paragraph sets out the contribution conditions for –
- (a) a widowed mother’s allowance, a widowed parent’s allowance or a widow’s pension;
- (b) a Category A retirement pension (other than one in relation to which paragraph 5A applies);
- (c) a Category B retirement pension in the cases provided for by any of sections 48A to 51.”
- (3) In paragraph 5A(1), for paragraphs (b) and (c) substitute –
- “(b) a Category B retirement pension in the cases provided for by any of sections 48A to 51.”
- 60 In Part 1 of Schedule 4 (rates of certain benefits), in paragraph 5, for “section 48A(3)” substitute “section 48A(4) or 48AA(4)”.
- 61 In Schedule 4A (additional pension: accrual rates for purposes of section 45(2)(c)), in paragraph 1(2), omit “, 48A(4)” (in both places).
- 62 In section 150 of the Administration Act (annual up-rating of benefits), in subsection (1), after paragraph (ab) insert –
- “(ac) specified in regulations under section 52(3) of that Act;”.
- 63 In section 46 of the Pension Schemes Act 1993 (effect of entitlement to guaranteed minimum pensions on payment of social security benefits), in subsection (6)(b)(iii), omit “48A,”.

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- 64 In section 128 of the Pensions Act 1995 (additional pension: calculation of surpluses), in subsection (6), omit “48A,”.
- 65 In Schedule 4 to the Pensions Act 1995 (equalisation of, and increase in, pensionable age for men and women), omit paragraph 3(2) and (3).
- 66 In section 577 of the Income Tax (Earnings and Pensions) Act 2003 (United Kingdom social security pensions), in the definition of “state pension” in subsection (2) –
- (a) in paragraph (a), after “48A,” insert “48AA,”;
  - (b) in paragraph (b), after “1992” insert “or any provision under the law of Northern Ireland that corresponds to section 48AA of SSCBA 1992”.
- 67 In Schedule 24 to the Civil Partnership Act 2004, omit paragraphs 25(6) and 28(6).
- 68 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions), in paragraph 8 –
- (a) in sub-paragraph (1)(a) and (3), after “48A,” insert “48AA,” and
  - (b) after sub-paragraph (5) insert –
    - “(6) References in this paragraph to section 48AA of the 1992 Act are to –
    - (a) section 48AA of the Social Security Contributions and Benefits Act, or
    - (b) any corresponding provision under the law of Northern Ireland.”

*Category C retirement pensions: repeal of spent provisions*

- 69 The Contributions and Benefits Act is amended as follows.
- 70 In section 63(f)(i) (descriptions of non-contributory benefits), for the words from “payable” to “widows” substitute “payable in certain cases to a widow whose husband was over pensionable age on 5 July 1948 or to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death”.
- 71 (1) Section 78 (Category C retirement pensions etc) is amended as follows.
- (2) Omit subsections (1), (2) and (5).
  - (3) In subsections (7) and (8), omit “Category C or”.
- 72 In Part 3 of Schedule 4 –
- (a) omit paragraph 6 (rate of Category C retirement pension);
  - (b) in paragraph 7 (rate of Category D retirement pension), for the text in the second column substitute the amount specified in paragraph 6 as the higher rate for a Category C retirement pension immediately before the date on which this paragraph comes into force.
- 73 In section 150A of the Administration Act (annual up-rating), in subsection (10), in the definition of “the specified amounts in the case of Category B, C or D retirement pensions” –
- (a) in paragraph (a), omit the final “and”;

- (b) in paragraph (b), for “amounts specified in paragraphs 6 and 7” substitute “amount specified in paragraph 7”;
- (c) at the end of paragraph (b) insert “, and
  - (c) any amount specified in regulations under section 78(9) of the Contributions and Benefits Act for a Category C retirement pension;”.

74 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions) omit paragraph 11 and the heading above it.

#### *Category D retirement pensions*

75 In section 78(3) of the Contributions and Benefits Act (entitlement to a Category D retirement pension), for “and satisfies” substitute “, who reached pensionable age before the new state pension introduction date and who satisfies”.

#### *Age addition*

76 In sections 63(g) and 79(1) of the Contributions and Benefits Act (age addition), after “retirement pension of any category” insert “under this Act”.

#### *Christmas bonus*

77 In section 150(2) of the Contributions and Benefits Act (Christmas bonus: interpretation), for the definition of “retirement pension” substitute –

““retirement pension” means –

- (a) a state pension under Part 1 of the Pensions Act 2013,
- (b) a retirement pension under this Act, or
- (c) graduated retirement benefit.”

#### *General*

78 In section 122(1) of the Contributions and Benefits Act (interpretation), at the appropriate place insert –

““the new state pension introduction date” means the date on which section 1 of the Pensions Act 2013 came into force;”.

### PART 3

#### AMENDMENTS TO DO WITH STATE PENSION CREDIT

79 The State Pension Credit Act 2002 is amended as follows.

80 In section 3 (savings credit), for subsection (1) substitute –

- “(1) The first of the conditions mentioned in section 1(2)(c)(ii) is that the claimant –
- (a) has attained pensionable age before the day on which section 1 of the Pensions Act 2013 (state pension) comes into force and has attained the age of 65 (before, on or after that date), or
  - (b) is a member of a couple, the other member of which falls within paragraph (a).”

81 After that section insert –

**“3ZA Power to limit savings credit for certain mixed-age couples**

- (1) Regulations may provide that, in prescribed cases, a person who is a member of a mixed-age couple is not entitled to a savings credit.
- (2) For example, the regulations could provide that a member of a mixed-age couple is not entitled to a savings credit unless –
  - (a) the person has been awarded a savings credit with effect from a day before section 1 of the Pensions Act 2013 came into force and was entitled to a savings credit immediately before that section came into force, and
  - (b) the person remained entitled to state pension credit at all times after that section came into force.
- (3) In this section “mixed-age couple” means a couple (whenever formed) one member of which had attained pensionable age before the day on which section 1 of the Pensions Act 2013 came into force and the other had not.”

82 In Schedule 1 to the Pensions Act 2007, omit paragraph 44.

PART 4

OTHER AMENDMENTS TO DO WITH PART 1

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

83 The Contributions and Benefits Act is amended as follows

84 (1) Section 39C (rate of widowed parent’s allowance and bereavement allowance) is amended as follows.

- (2) In subsection (1), for the words from “45AA” to “as they apply” substitute “45AA and Schedules 4A and 4B below as they apply”.
- (3) In subsection (3), for the words from “45AA” to “by virtue of subsection (1) above” substitute “45AA and Schedules 4A and 4B below by virtue of subsection (1) above”.
- (4) In subsection (4), for the words from “45AA” to “below” substitute “45AA and Schedules 4A and 4B below”.

85 (1) Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.

- (2) In the following provisions omit “(as those provisions have effect by virtue of section 2(7) of the Pensions Act 2011)” –
  - paragraph 4(1A)(a), (b) and (c);
  - paragraph 7B(5)(b)(i).

(3) After paragraph 7 insert –

“7ZA(1) This paragraph modifies paragraphs 5A to 6A in cases where –

- (a) W became entitled to a Category A or Category B retirement pension before 6 April 2012, and
- (b) S died before 6 April 2012.

(“W” and “S” have the same meaning as in paragraph 5.)

- (2) Paragraph 5A applies as if –
  - (a) in sub-paragraph (2), after paragraph (a), there were inserted –
    - “(b) the appropriate amount; and”;
  - (b) in sub-paragraph (3), after “following –”, there were inserted –
    - “(a) one half of the appropriate amount; and”.
- (3) Paragraph 6 applies as if –
  - (a) in sub-paragraph (2), after paragraph (a), there were inserted –
    - “(b) the appropriate amount; and”;
  - (b) in sub-paragraph (3), after paragraph (b), there were inserted –
    - “(c) the appropriate amount reduced by the amount of any increases under section 109 of the Pensions Act; and”;
  - (c) in sub-paragraph (4), after paragraph (a), there were inserted –
    - “(b) one half of the appropriate amount; and”.
- (4) Paragraph 6A applies as if in sub-paragraph (2), after paragraph (a), there were inserted –
  - “(b) one half of the appropriate amount; and”;
- (5) In paragraphs 5A to 6A as modified by this paragraph, the “appropriate amount” means the greater of –
  - (a) the amount by which the deceased person’s Category A or Category B retirement pension had been increased under section 150(1)(e) of the Administration Act; or
  - (b) the amount by which his or her Category A or Category B retirement pension would have been so increased had he or she died immediately before the surviving spouse or civil partner became entitled to a Category A or Category B retirement pension.
- (6) In sub-paragraph (1)(a) the reference to becoming entitled to a pension before 6 April 2012 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.”

*Pension Schemes Act 1993 (c. 48)*

- 86      Section 46A of the Pension Schemes Act 1993 (retirement in tax year after 5 April 2020) is repealed.

*Pensions Act 2008 (c. 30)*

- 87      In the Pensions Act 2008, the following are repealed –
- (a) sections 102 and 103 (consolidation of additional pension);
  - (b) Schedule 3 (consolidation of additional pension);
  - (c) in Schedule 4 (minor and consequential amendments) –

paragraph 4(2)(b) and (3)(b);  
 paragraph 6(3);  
 paragraph 7(a);  
 paragraph 8(a);  
 paragraph 9(2)(c);  
 paragraph 10;  
 paragraphs 13 to 22.

*Pensions Act 2011 (c. 19)*

- 88 In the Pensions Act 2011, the following are repealed –
- (a) section 2(5) to (9) and Schedule 2 (abolition of certain additions to the state pension);
  - (b) section 3 and Schedule 3 (consolidation of additional pension).

## SCHEDULE 13

Section 24

### ABOLITION OF CONTRACTING-OUT FOR SALARY RELATED SCHEMES

#### PART 1

#### PENSION SCHEMES ACT 1993: AMENDMENTS

- 1 The Pension Schemes Act 1993 is amended as follows.
- 2 For “the abolition date” (in each place) substitute “the first abolition date”.
- 3 In the heading for Part 3 of the Act –
  - (a) for “Certification of pension schemes” substitute “Schemes that were contracted-out etc”;
  - (b) omit “and duties”.
- 4 For the heading to Chapter 1 of Part 3 substitute “Schemes that were contracted-out: guaranteed minimum pensions and alteration of scheme rules etc”.
- 5 Section 7 (issue of contracting-out certificates) is repealed (and accordingly, any certificates in force under that section immediately before this paragraph comes into force cease to have effect).
- 6 After section 7 insert –

#### **“7A Meaning of “the first abolition date” and “the second abolition date”**

In this Act –

“the first abolition date” means 6 April 2012 (the date appointed for the commencement of section 15(1) of the Pensions Act 2007 (abolition of contracting-out for defined contribution pension schemes));

“the second abolition date” means the date on which section 1 of the Pensions Act 2013 (new state pension) came into force.

## **7B Meaning of “contracted-out scheme” and “appropriate scheme” etc.**

- (1) This section applies for the interpretation of this Act.
  - (2) An occupational pension scheme was “contracted-out” at a time if, at that time, there was in force a certificate under section 7 (as it then had effect) stating that the employment of an earner in employed earner’s employment was contracted-out employment by reference to the scheme.
  - (3) “Contracting-out certificate” means a certificate of the kind mentioned in subsection (2).
  - (4) An occupational pension scheme was a “salary related contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 9(2) (as it then had effect).
  - (5) An occupational pension scheme was a “money purchase contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 9(3) (as it then had effect).
  - (6) A personal pension scheme was an “appropriate scheme” at a time if, at that time, there was in force a certificate issued under section 7(1)(b) (as it then had effect) stating that the scheme was an appropriate scheme.
  - (7) “Appropriate scheme certificate” means a certificate of the kind mentioned in subsection (6).
  - (8) An appropriate scheme certificate that was in force in relation to a scheme is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.”
- 7 (1) Section 8 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) In relation to any period before the second abolition date, the employment of an earner in employed earner’s employment was “contracted-out employment” in relation to the earner during that period if –
- (a) the earner was under pensionable age;
  - (b) the earner’s service in the employment was service which qualified the earner for a pension provided by a salary related contracted-out scheme; and
  - (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.”
- (3) After subsection (1A) insert –
- “(1B) In the following provisions of this Act “earner”, in a context relating to a scheme that was a salary related contracted-out scheme, means a person who was an earner in contracted-out employment by reference to the scheme.”

- 
- (4) In subsection (2), in the definition of “guaranteed minimum pension”, for “by an occupational pension scheme” substitute “, by a scheme that was a salary related contracted-out scheme,”.
- (5) For subsection (4) substitute –
- “(4) A contracting-out certificate that was in force in respect of an employed earner’s employment is to be taken as conclusive that the employment was, at that time, contracted-out employment.”
- 8 The italic heading above section 9 is repealed.
- 9 Sections 9 and 11 (requirements for certification of schemes: general) are repealed.
- 10 The italic heading above section 12A is repealed.
- 11 Sections 12A to 12D (requirements for certification applying to employment from 6 April 1997) are repealed.
- 12 For the italic heading above section 13 substitute “Guaranteed minimum pensions”.
- 13 (1) Before section 13 insert –
- “12E Former salary related contracted-out schemes to comply with GMP requirements**
- (1) A scheme that was a salary related contracted-out scheme is to be treated as including whatever provision it needs to contain to comply with the GMP requirements.
- (2) A scheme complies with the GMP requirements if, in relation to any earner’s service before the principal appointed day, it complies in all respects with sections 13 to 24E.
- (3) Where –
- (a) a scheme is permitted by any of those sections to include provision subject to certain requirements, and
- (b) the scheme includes the provision but not the requirements, the scheme is to be treated by subsection (1) as including the requirements.
- (4) This section overrides any provision of a scheme to the extent that the provision of the scheme conflicts with it.”
- (2) For the purposes of section 12E it does not matter whether the scheme ceased to be contracted-out when the amendment made by paragraph 5 of this Schedule came into force or before that time.
- (3) But section 12E does not treat a scheme as having included any provision before this paragraph comes into force.
- 14 In section 13 (minimum pensions for earners), in subsection (2) –
- (a) for “is a married woman or widow who is liable” substitute “was a married woman or widow who was liable”;
- (b) after “Act 1992” insert “at a time during a relevant year when she was in contracted-out employment by reference to the scheme”;
- (c) at the end of that subsection insert –



““Relevant year” has the meaning given by section 14(8).”

15 (1) Section 14 (earner’s guaranteed minimum) is amended as follows.

(2) For subsection (1) substitute –

“(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme that was a salary related contracted-out scheme if in any tax week in a relevant year –

- (a) earnings were paid to or for the earner’s benefit in respect of employment which was contracted-out by reference to the scheme; and
- (b) those earnings were in excess of the lower earnings limit for that tax week (or the prescribed equivalent if the earner was paid otherwise than weekly).”

(3) In subsection (2), for “earnings such as are mentioned in subsection (1)” substitute “excess earnings mentioned in subsection (1)(b)”.

16 In section 16 (revaluation of earnings factors for the purposes of section 14: early leavers etc), in subsection (2), after “service in” insert “employment that was”.

17 (1) Section 17 (minimum pensions for widows, widowers and surviving civil partners) is amended as follows.

(2) In subsection (4A), after paragraph (a) insert –

“(aa) for life, in a case where –

- (i) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date, and
- (ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;

(ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where –

- (i) the earner died before the widow, widower or surviving civil partner attained state pension age,
- (ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and
- (iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;”.

(3) After subsection (9) insert –

“(10) For the purposes of subsection (4A)(aa) and (ab) a person attains state pension age when he or she attains pensionable age within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.”

18 In section 20 (transfer of accrued rights), in subsection (1)(a) –

- (a) in sub-paragraph (i), after “under a” insert “scheme that was a”;
- (b) in sub-paragraph (ii) –
  - (i) omit “which is not contracted-out;”;

- 
- (ii) after “under a” insert “scheme that was a”.
- 19 For the italic heading above section 24A substitute “GMP conversion and HMRC powers concerning scheme investment and resources”.
- 20 In section 23 (securing of benefits), in subsection (2), omit paragraph (d).
- 21 In section 25 (power for HMRC to impose conditions as to investments and resources), in subsection (2), after “A” insert “scheme that was a”.
- 22 Sections 34 to 36 (cancellation, variation, surrender and refusal of certificates) are repealed.
- 23 In the italic heading above section 37, for “scheme rules after certification” substitute “rules by former salary related contracted-out schemes”.
- 24 In section 37 (alteration of rules of contracted-out schemes) for subsections (1) to (3) substitute –
- “(1) Except in prescribed cases, the rules of a scheme that was a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.
  - (2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
  - (3) Subsection (1) does not apply to a scheme if no person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.”
- 25 After section 37 insert –
- “37A Transfer of liabilities etc: schemes contracted-out on or after 6 April 1997**
- (1) Regulations may prohibit or restrict –
    - (a) the transfer of any liability –
      - (i) for the payment of pensions under a relevant scheme, or
      - (ii) in respect of accrued rights to such pensions,
    - (b) the discharge of any liability to provide pensions under a relevant scheme, or
    - (c) the payment of a lump sum instead of a pension payable under a relevant scheme,
 except in prescribed circumstances or on prescribed conditions.
  - (2) In this section “relevant scheme” means a scheme that was a salary related contracted-out scheme by virtue of section 9(2B) and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day (including, in a case where there has been a transfer payment, any pensions or rights deriving (directly or indirectly) from –
    - (a) an earner’s service on or after the principal appointed day in employment that was contracted-out employment by reference to another scheme, or

- 
- (b) in a case where the transfer payment was made before the first abolition date, protected rights under another occupational pension scheme or under a personal pension scheme which derive from payments or contributions in respect of employment on or after the principal appointed day.)
    - (3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.”
  - 26 For the heading to Chapter 2 of Part 3 substitute “Reduction in social security benefits for members of schemes that were contracted-out”.
  - 27 In section 40 (scope of Chapter 2) –
    - (a) omit paragraph (a);
    - (b) in paragraph (c) for “such schemes” substitute “schemes that were contracted-out pension schemes”.
  - 28 The italic heading above section 41 is repealed.
  - 29 Section 41 (reduced rates of Class 1 contributions) is repealed.
  - 30 (1) Section 42 (review and alteration of reduced rates of Class 1 contributions) is repealed.
  - (2) There is no duty, before the repeal of section 42 comes into force, to lay before Parliament any reports under that section.
  - 31 In section 48A (additional pension and other benefits), in subsection (1), for the words from the beginning to the end of paragraph (b) substitute “In relation to –
    - (a) any tax week falling before the first abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 42A of this Act (as it then had effect),
    - (b) any tax week falling before the second abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 41 of this Act (as it then had effect), or
    - (c) any tax week falling before the first abolition date where an amount was paid under section 45(1) of this Act (as it then had effect) in respect of the earnings paid to or for the benefit of an earner,”.
  - 32 Section 49 (women, married women and widows) is repealed.
  - 33 Section 50 (powers of HMRC to approve arrangements for scheme ceasing to be certified) is repealed.
  - 34 In section 51 (calculation of guaranteed minimum pensions under approved arrangements), in subsection (1)(b), for “ceases” substitute “ceased”

35 For section 52 substitute –

**“52 Supervision of former salary related contracted-out schemes**

Section 53 shall apply for the purpose of making provision for securing the continued supervision of any scheme that was a salary related contracted-out scheme, other than a public service pension scheme, if any person is entitled to receive or has accrued rights to –

- (a) a guaranteed minimum pension under the scheme, or
- (b) a pension under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out.”

36 In section 53 (supervision: former contracted-out schemes), omit subsection (3).

37 Sections 55 to 68 (state scheme premiums) are repealed.

38 (1) Section 87 (general protection principle) is amended as follows.

(2) In subsection (1)(a), for sub-paragraph (i) substitute –

“(i) the date on which an earner ceased to be in contracted-out employment by reference to a salary related contracted-out scheme (“the cessation date”); and”.

(3) After subsection (5) insert –

“(5A) In subsection (1)(a)(i) the reference to the date on which an earner ceased to be in contracted-out employment by reference to a salary related contracted-out scheme includes the case where an earner ceased to be in contracted-out employment by reference to the scheme because the scheme ceased, on the second abolition date, to be a contracted-out scheme.”

39 In section 96 (further provisions concerning exercise of option to take cash equivalent in a particular way), in subsection (2), in paragraph (a)(i) omit “which is not a contracted-out scheme”.

40 In section 109 (annual increase of guaranteed minimum pensions), in subsection (3A)(b), omit “for the purposes of Part 3 of the Pensions Act 1995”.

41 In section 171 (questions arising in proceedings), in subsection (1), omit paragraph (b) and the “or” before it.

42 In section 178 (trustees and managers of schemes), in paragraph (a) –

- (a) after “1985” insert “or”;
- (b) omit “or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act 2000”.

43 (1) Section 181(1) (general interpretation) is amended as follows.

(2) In the appropriate places insert –

““the first abolition date” has the meaning given by section 7A;”

““the second abolition date” has the meaning given by section 7A;”

““the principal appointed day” means 6 April 1997 (which is the day designated as the principal appointed day for the purposes of Part 3 of the Pensions Act 1995);”

““salary related contracted-out scheme” is to be construed in accordance with section 7B;”.

- (3) Omit the definition of “abolition date”.
  - (4) In the definition of “appropriate scheme” and “appropriate scheme certificate”, for “section 181A” substitute “section 7B”.
  - (5) In the definition of “contracting-out certificate”, for “section 7 and section 181A” substitute “section 7B”.
  - (6) In the definition of “earner” and “earnings”, after “in accordance with” insert “section 8(1B) of this Act and”.
  - (7) In the definition of “money purchase contracted-out scheme”, for “section 181A” substitute “section 7B”.
- 44 Section 181A (interpretation of references to money purchase contracted-out schemes or appropriate schemes after first abolition date) is repealed.
- 45 In section 185 (consultation about other regulations), omit subsection (9).
- 46 (1) Schedule 2 (certification regulations) is amended as follows.
- (2) Omit paragraphs 1 to 4.
  - (3) In paragraph 5(3A), for “a contracted-out occupational pension scheme which is being wound up if,” substitute “a scheme which was a contracted-out occupational pension scheme and which was being wound up before the second abolition date”.
  - (4) Omit paragraphs 6 to 8.
- 47 (1) Schedule 4 (priority in bankruptcy) is amended as follows.
- (2) In paragraph 2 –
    - (a) in sub-paragraph (1), after “contributions to a” insert “Northern Ireland”;
    - (b) in sub-paragraph (5), at the appropriate place insert –
 

““Northern Ireland salary related contracted-out scheme” means a salary related contracted-out scheme within the meaning of the Pension Schemes (Northern Ireland) Act 1993 (and references to employment that is contracted-out by reference to a scheme are to be read accordingly);”.
  - (3) In paragraph 3 –
    - (a) in sub-paragraph (1), after “on account of a” insert “Northern Ireland”;
    - (b) after sub-paragraph (5) insert –
 

“(6) In this paragraph “Northern Ireland contributions equivalent premium” means a contributions equivalent premium within the meaning of the Pension Schemes (Northern Ireland) Act 1993.”

(4) Omit paragraph 4(2).

## PART 2

### OTHER ACTS: AMENDMENTS

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

- 48 The Contributions and Benefits Act is amended as follows.
- 49 In section 1 (outline of contributory system), in subsection (3), omit the words after paragraph (b).
- 50 In section 4C (power to make provision in consequence of provision made by virtue of section 4B(2) etc), in subsection (5), in each of paragraphs (a) and (b) omit the words from “, including” to the end.
- 51 In section 8 (calculation of primary Class 1 contributions), in subsection (3), omit paragraph (c) and the “and” before it.
- 52 In section 9 (calculation of secondary Class 1 contributions), in subsection (3), omit paragraph (c) and the “and” before it.
- 53 In section 20 (descriptions of contributory benefits), in subsection (3), for “(reduction in state scheme contributions and benefits for members of certified schemes)” substitute “(reduction in benefits for members of schemes that were contracted-out)”.
- 54 In Schedule 1 (supplementary provisions relating to national insurance contributions), in paragraph 1, omit sub-paragraphs (2), (3), (6) and (9) to (11).

#### *Social Security Administration Act 1992 (c. 5)*

- 55 The Administration Act is amended as follows.
- 56 In section 150 (annual up-rating of benefits), in subsection (10A), for “the abolition date, as defined by section 181(1) of the Pensions Act,” substitute “6 April 2012 (the date appointed for the commencement of section 15(1) of the Pensions Act 2007)”.
- 57 In section 191 (interpretation - general) –
- (a) in the definition of “money purchase contracted-out scheme”, for “section 181A” substitute “section 7B”;
  - (b) in the definition of “personal pension scheme” etc, for “section 181A(6)” substitute “section 7B(6)”.

#### *Pensions Act 1995 (c. 26)*

- 58 The Pensions Act 1995 is amended as follows.
- 59 (1) Section 51 (annual increase in rate of pension) is amended as follows.
- (2) For “the appointed day” (in each place) substitute “6 April 1997”.
  - (3) For subsection (8) substitute –
    - “(8) An occupational pension scheme is a “relevant occupational pension scheme” if –

- 
- (a) it has not, at any time on or after 6 April 1997, been a salary related contracted-out scheme (see section 7B of the Pension Schemes Act 1993), or
    - (b) it has, at any time on or after 6 April 1997, been a salary related contracted-out scheme but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to a period on or after that day when it was such a scheme.”
  - 60 In section 54 (sections 51 to 53: supplementary), in subsection (3), omit the definition of “the appointed day”.
  - 61 For section 69 substitute –
    - “69 Grounds for applying for modifications: winding up registered schemes**
    - (1) The Authority may, on an application made to them by the trustees of a registered pension scheme which is being wound up, make an order –
      - (a) modifying the scheme for the purpose of enabling assets remaining after the liabilities of the scheme have been fully discharged to be distributed to the employer, or
      - (b) authorising the trustees to modify the scheme for that purpose.
    - (2) But the Authority may act under subsection (1) only if prescribed requirements in relation to the distribution are satisfied.
    - (3) Regulations may make provision requiring applications under subsection (1) to meet prescribed requirements.
    - (4) Regulations may provide that in prescribed circumstances this section does not apply to schemes falling within a prescribed class or description or applies to them with prescribed modifications.
    - (5) In this section “registered pension scheme” means an occupational pension scheme registered under section 153 of the Finance Act 2004 (other than a public service pension scheme).”
  - 62 In section 70 (section 69: supplementary), omit subsection (3).
  - 63 In section 71 (effect of orders under section 69), in subsection (1) –
    - (a) for “paragraph (a)” substitute “paragraph (b)”;
    - (b) for “paragraph (b)” substitute “paragraph (a)”;
  - 64 In section 72 (modification of public service pension schemes), in subsection (1), for “section 69(1)(b)” substitute “section 69(1)(a)”.
  - 65 Sections 136(1), (3) and (5), 137(3) and (4) and 148 (amendments to do with contracting-out) are repealed.

*Child Support, Pensions and Social Security Act 2000 (c. 19)*

- 66 The Child Support, Pensions and Social Security Act 2000 is amended as follows.
- 67 (1) Section 42 (disclosure of state pension information) is amended as follows.

70

*Pensions Bill*  
*Schedule 13 – Abolition of contracting-out for salary related schemes*  
*Part 2 – Other Acts: amendments*

(2) In subsection (3)(d), omit “which is not contracted-out employment”.

(3) In subsection (11), omit the definition of “contracted-out employment”.

68 Part 2 of Schedule 5 (alternative to anti-franking rules) is repealed.

*Pensions Act 2007 (c. 22)*

69 The Pensions Act 2007 is amended as follows.

70 (1) Section 15 (abolition of contracting-out for defined contribution pension schemes) is amended as follows.

(2) In subsection (1), for “the abolition date” substitute “6 April 2012”.

(3) In subsection (2), omit the definition of “the abolition date”.

(4) In subsection (4), for “the abolition date” (in each place) substitute “6 April 2012”.

71 In section 27 (consequential provision, repeals and revocations), in subsection (6), for “the abolition date (within the meaning of section 15)” substitute “6 April 2012”.

72 (1) Schedule 4 (abolition of contracting-out for defined contribution pension schemes) is amended as follows.

(2) In paragraphs 61, 62(1), (2)(a) and (b)(i) and (3), 65 and 66(2) for “the abolition date” (in each place) substitute “6 April 2012”.

(3) In paragraph 67(1) omit the definition of “the abolition date”.

*Pensions Act 2008 (c. 30)*

73 The Pensions Act 2008 is amended as follows.

74 For section 21 substitute –

**“21 Quality requirement: UK defined benefits schemes**

A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if it satisfies the test scheme standard in relation to that jobholder.”

75 In section 22 (test scheme standard), for subsection (2) substitute –

“(2) Subject to subsection (3), the relevant members are J and all active members who are jobholders of the same employer as J.”

## SCHEDULE 14

Section 24

### POWER TO AMEND SCHEMES TO REFLECT ABOLITION OF CONTRACTING-OUT

#### *Introduction*

1 This Schedule is about the power under section 24(2) to amend an occupational pension scheme in relation to some or all of its members.



*What can the power be used to do?*

- 2 (1) The power may be used –
  - (a) to increase the employee contributions of the relevant members;
  - (b) to alter the future accrual of benefits for or in respect of them.
- (2) But the power may not be used in a way that would –
  - (a) increase the amount of the total annual employee contributions of the relevant members by more than the annual increase in the employer’s national insurance contributions in respect of them,
  - (b) reduce the amount of the scheme’s liabilities in respect of the benefits that accrue annually for or in respect of the relevant members by more than the annual increase in the employer’s national insurance contributions in respect of them, or
  - (c) result in the sum of the amount of any increase in the total annual employee contributions of the relevant members and the amount of any reduction in the scheme’s liabilities in respect of the benefits that accrue annually for or in respect of the relevant members being more than the annual increase in the employer’s national insurance contributions in respect of the relevant members.
- (3) Regulations are to define what is meant by –
  - (a) the total annual employee contributions of the relevant members;
  - (b) the annual increase in an employer’s national insurance contributions in respect of the relevant members;
  - (c) a scheme’s liabilities in respect of the benefits that accrue annually for or in respect of the relevant members.
- (4) Regulations may create exceptions to sub-paragraph (2).
- 3 (1) The power may not be used in a way that would or might adversely affect the subsisting rights of –
  - (a) a member of the scheme, or
  - (b) a survivor of a member of the scheme.
- (2) “Subsisting right” and “survivor” have the meanings given by section 67A of the Pensions Act 1995.
- 4 Regulations may impose further restrictions on the use of the power.

*Creation of exceptions*

- 5 The power may not be used to amend a scheme in relation to a member of a description specified in regulations under this paragraph.

*Requirement for actuary’s certificate*

- 6 (1) The power may be used only if an actuary has certified that the proposed amendments would comply with such of the requirements imposed by or under this Schedule as are specified in regulations under this paragraph.
- (2) “Actuary” means –
  - (a) a person of a description specified in regulations, or
  - (b) a person approved by the Secretary of State.

*When can the power be used?*

- 7 The power may be used before or after the repeal of section 41 of the Pension Schemes Act 1993 comes into force (but amendments made under it must not be framed so as to take effect before the repeal comes into force).
- 8 An amendment made before the repeal of section 41 of the Pension Schemes Act 1993 comes into force does not take effect in relation to any relevant members who have ceased to be in contracted-out employment by reference to the scheme before the repeal comes into force.

*Power may not be used in relation to same relevant members more than once*

- 9 The power may not be used to amend a scheme in relation to the same relevant members on more than one occasion.

*Modifications for multi-employer or sectionalised schemes*

- 10 (1) Regulations may modify section 24(2) to (5) or this Schedule as it applies in relation to –
- (a) multi-employer schemes, or
  - (b) schemes that have different rules for different members.
- (2) “Multi-employer scheme” means a scheme in relation to which there is more than one employer.

*The power overrides other legislation*

- 11 An amendment under section 24 and this Schedule may be made in relation to any member, and has effect, despite anything in any other enactment to the contrary.

*Procedural requirements*

- 12 Regulations may impose procedural requirements about the use of the power and the manner in which any amendments must be made.

*Definitions*

- 13 In this Schedule –
- “employee contributions” means, in relation to a member of a scheme, contributions made to the scheme by or on behalf of the member on his or her own account;
  - “relevant member”, in relation to a scheme, means a member in relation to whom the scheme has been or is to be amended under section 24(2).

## SCHEDULE 15

Section 28

## BEREAVEMENT SUPPORT PAYMENT: AMENDMENTS

*Forfeiture Act 1982 (c. 34)*

- 1 In section 4 of the Forfeiture Act 1982 (Upper Tribunal to decide whether forfeiture rule applies to social security benefits), in the definition of “relevant enactment” in subsection (5), after the entry relating to Part 1 of this Act (inserted by Schedule 12 to this Act) insert –  
“section 27 of that Act.”

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

- 2 The Social Security Contributions and Benefits Act 1992 is amended as follows.
- 3 (1) Section 20 (descriptions of contributory benefits) is amended as follows.  
(2) In subsection (1), for paragraph (ea) substitute –  
“*(ea) widowed parent’s allowance;*”.
- (3) In subsection (2), in the definition of “long-term benefit” omit paragraph (bb).
- 4 (1) Section 21 (contribution conditions) is amended as follows.  
(2) In the table in subsection (2) omit the entries for bereavement payment and bereavement allowance.  
(3) Omit subsection (4).
- 5 In section 22 (earnings factors), in subsection (2), after paragraph (c) (inserted by Schedule 12 to this Act) insert “and  
(d) establishing entitlement to bereavement support payment under section 27 of the Pensions Act 2013.”
- 6 (1) Section 23A (contributions credits for relevant parents and carers) is amended as follows.  
(2) In subsection (1) omit paragraph (e).  
(3) In subsection (6)(b) omit “or (e)”.
- 7 For the italic heading above section 36 substitute “Bereavement benefits: deaths before the day on which section 27 of the Pensions Act 2013 comes into force”.
- 8 Section 36 (bereavement payment) is repealed.
- 9 Section 36A (cases in which sections 37 to 41 apply) is repealed.
- 10 (1) Section 37 (widowed mother’s allowance) is amended as follows.  
(2) Before subsection (1) insert –  
“(A1) This section applies only in cases where a woman’s husband has died before 9 April 2001.”  
(3) At the end of the heading insert “: deaths before 9 April 2001”.

- 
- 11 (1) Section 38 (widow's pension) is amended as follows.
- (2) Before subsection (1) insert –
- “(A1) This section applies only in cases where a woman's husband has died before 9 April 2001.”
- (3) At the end of the heading insert “: deaths before 9 April 2001”.
- 12 In section 39A (widowed parent's allowance), for subsection (1) substitute –
- “(1) This section applies where –
- (a) a person's spouse or civil partner has died before the day on which section 27 of the Pensions Act 2013 comes into force (but see subsection (1A)),
- (b) the person has not married or formed a civil partnership after the death but before that day, and
- (c) the person is under pensionable age on that day.
- (1A) This section does not apply in cases where a woman's husband has died before 9 April 2001.”
- 13 Section 39B (bereavement allowance where no dependent children) is repealed.
- 14 (1) Section 39C (rate of widowed parent's allowance and bereavement allowance) is amended as follows.
- (2) Omit subsection (2).
- (3) Omit subsection (5).
- (4) In the heading omit “and bereavement allowance”.
- 15 In section 48B (Category B retirement pension for widows and widowers), in subsection (8), for “the appointed day (as defined by section 36A(3))” substitute “9 April 2001”.
- 16 In section 48BB (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsection (3)(a)(i), after “bereavement allowance” insert “under section 39B (before that section was repealed)”.
- 17 (1) Section 60 (complete or partial failure to satisfy contribution condition) is amended as follows.
- (2) In subsection (1) omit paragraph (ab).
- (3) In subsection (3) omit paragraphs (a) and (bb).
- 18 (1) Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.
- (2) Omit paragraph 4 and the italic heading above it.
- (3) Omit paragraphs 7 and 9.
- 19 In Schedule 4 (rates of benefits etc) omit Part 2.

*Social Security Administration Act 1992 (c. 5)*

- 20 The Social Security Administration Act 1992 is amended as follows.

- 
- 21 (1) Section 1 (entitlement to benefit dependent on claim) is amended as follows.
- (2) For subsection (2) substitute –
- “ (2) Where under subsection (1) a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it, the person is not entitled to it in respect of any period more than 12 months before the date on which the claim is made or treated as made.
- (2A) But subsection (2) does not apply –
- (a) to disablement benefit or reduced earnings allowance, or
- (b) in a case where a claim for the benefit is made or treated as made by virtue of section 3(2).”
- (3) In subsection (4), after paragraph (zb) (inserted by Schedule 12 to this Act) insert –
- “(zc) bereavement support payment under section 27 of the Pensions Act 2013;”.
- 22 In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview), in subsection (2)(d), omit “(other than a bereavement payment)”.
- 23 (1) Section 3 (late claims for bereavement benefit where death is difficult to establish) is amended as follows.
- (2) Subsection (3) is repealed.
- (3) After subsection (4) insert –
- “(5) In subsection (2) “bereavement benefit” means –
- (a) bereavement support payment, or
- (b) widowed parent’s allowance.”
- 24 In section 5 (regulations about claims for and payments of benefits), in subsection (2), after paragraph (zb) (inserted by Schedule 12 to this Act) insert –
- “(zc) bereavement support payment under section 27 of the Pensions Act 2013;”.
- 25 In section 71 (overpayments - general), in subsection (11), after paragraph (ad) insert –
- “(ae) bereavement support payment under section 27 of the Pensions Act 2013;”.
- 26 (1) Section 73 (overlapping benefits - general) is amended as follows.
- (2) In subsection (1), after “state pension under Part 1 of the Pensions Act 2013 or” (inserted by Schedule 12 to this Act) insert “bereavement support payment under section 27 of that Act or”.
- (3) In subsection (4), after paragraph (za) (inserted by Schedule 12 to this Act) insert –
- “(zb) bereavement support payment under section 27 of the Pensions Act 2013;”.
- 27 In section 121DA (interpretation of Part 6), in subsection (1), after paragraph

- 
- (hl) (inserted by Schedule 12 to this Act) insert –  
“(hm) sections 27 and 28 of the Pensions Act 2013;”.
- 28 In section 122B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “, Part 1 of the Pensions Act 2013” (inserted by Schedule 12 to this Act) insert “, section 27 of that Act”.
- 29 In section 124 (age, death and marriage), in subsection (1), after paragraph (af) (inserted by Schedule 12 to this Act) insert –  
“(ag) of section 27 of the Pensions Act 2013; and”.
- 30 In section 125 (regulations as to notification of deaths), in subsection (1), after “, Part 1 of the Pensions Act 2013” (inserted by Schedule 12 to this Act) insert “, section 27 of that Act”.
- 31 In section 150 (annual up-rating of benefits), in subsection (1), after paragraph (p) (inserted by Schedule 12 to this Act) insert –  
“(q) specified in regulations under section 27 of the Pensions Act 2013 (bereavement support payment).”
- 32 (1) Section 163 (general financial arrangements) is amended as follows.  
(2) In subsection (1), after paragraph (za) (inserted by Schedule 12 to this Act) insert –  
“(zb) bereavement support payment under section 27 of the Pensions Act 2013;”.  
(3) In subsection (2)(a), after “, Part 1 of the Pensions Act 2013” (inserted by Schedule 12 to this Act) insert “, section 27 of that Act”.  
(4) In subsection (3)(b), after “or Part 1 of the Pensions Act 2013” (inserted by Schedule 12 to this Act) insert “or section 27 of that Act”.
- 33 In section 170 (Social Security Advisory Committee), in subsection (5) –  
(a) in the definition of “the relevant enactments”, after paragraph (am) (inserted by Schedule 12 to this Act) insert –  
“(an) section 27 of the Pensions Act 2013;”;  
(b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (am) (inserted by Schedule 12 to this Act) insert –  
“(an) any provisions in Northern Ireland which correspond to section 27 of the Pensions Act 2013;”.
- 34 (1) Section 179 (reciprocal agreements) is amended as follows.  
(2) In subsection (3)(a), after “Pensions Act 2013” (inserted by Schedule 12 to this Act) insert “, section 27 or 28 of that Act”.  
(3) In subsection (4), after paragraph (ai) (inserted by Schedule 12 to this Act) insert –  
“(aj) to section 27 or 28 of the Pensions Act 2013;”.  
(4) In subsection (5) –  
(a) after “Pensions Act 2013” (inserted by Schedule 12 to this Act) insert “or section 27 of that Act”;

- (b) after paragraph (ad) (inserted by Schedule 12 to this Act) insert –  
“(ae) bereavement support payment;”.
- 35 In section 187 (inalienability), in subsection (1), after paragraph (ad) insert –  
“(ae) bereavement support payment under section 27 of the  
Pensions Act 2013;”.
- 36 In section 191 (interpretation), in the definition of “benefit”, for “and  
personal independence payment” substitute “, personal independence  
payment and bereavement support payment under section 27 of the  
Pensions Act 2013”.

*Social Security Act 1993 (c. 3)*

- 37 In section 2 of the Social Security Act 1993 (payments into National  
Insurance Fund out of money provided by Parliament), in subsection (4)(a),  
after “(za),” (inserted by Schedule 12 to this Act) insert “(zb),”.

*Social Security Act 1998 (c. 14)*

- 38 The Social Security Act 1998 is amended as follows.
- 39 In section 2 (use of computers), in subsection (2), after paragraph (m)  
(inserted by Schedule 12 to this Act) insert “or  
(n) section 27 of the Pensions Act 2013;”.
- 40 (1) Section 8 (decisions by Secretary of State) is amended as follows.
- (2) In subsection (3), after paragraph (ab) (inserted by Schedule 12 to this Act)  
insert –  
“(ac) bereavement support payment under section 27 of the  
Pensions Act 2013;”.
- (3) In subsection (4), after “Part 1 of the Pensions Act 2013” (inserted by  
Schedule 12 to this Act) insert “or section 27 of that Act”.
- 41 In section 11 (regulations with respect to decisions), in subsection (3), in the  
definition of “the current legislation”, after “Part 1 of the Pensions Act 2013”  
(inserted by Schedule 12 to this Act) insert “and section 27 of that Act”.
- 42 In section 27 (restriction on entitlement in cases of error), in subsection (7),  
in the definition of “benefit” –  
(a) after paragraph (df) insert –  
“(dg) bereavement support payment under section 27 of the  
Pensions Act 2013;”;  
(b) in paragraph (e), for “to (df)” substitute “to (dg)”.
- 43 In section 28 (correction of errors in decisions etc), in subsection (3)(j), after  
“Part 1 of the Pensions Act 2013” (inserted by Schedule 12 to this Act) insert  
“or section 27 of that Act”.

*Social Security Fraud Act 2001 (c. 11)*

- 44 The Social Security Fraud Act 2001 is amended as follows.
- 45 In section 6A (definitions), in subsection (1), in the definition of

“disqualifying benefit”, after paragraph (ca) insert –

“(cb) bereavement support payment under section 27 of the Pensions Act 2013 or under any provision in Northern Ireland which corresponds to that section;”.

46 In section 10 (power to supplement and mitigate loss of benefit provisions), in subsection (3), after paragraph (bf) (inserted by Schedule 12 to this Act) insert –

“(bg) bereavement support payment under section 27 of the Pensions Act 2013 or under any provision in Northern Ireland which corresponds to that section;”.

*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

47 The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.

48 In section 660 (taxable benefits: UK benefits - Table A), in the table in subsection (1), in the entry relating to bereavement allowance, omit the words “SSCBA 1992 Section 39B” (in the second column).

49 In section 677 (UK social security benefits wholly exempt from tax), in Part 1 of Table B in subsection (1), in the entry relating to bereavement payments, omit the words “SSCBA 1992 Section 36” (in the second column).

## SCHEDULE 16

Section 31

### PROHIBITION ORDERS: CONSEQUENTIAL AMENDMENTS

*Pensions Act 1995 (c. 26)*

1 The Pensions Act 1995 is amended as follows.

2 In section 6 (removal or suspension of trustees: consequences) –

(a) in subsections (1) and (3), after “section 3” insert “or 3A”;

(b) in subsection (4), after “section 3” insert “, 3A”.

3 In section 7 (appointment of trustees), in subsection (1), after “section 3,” insert “by section 3A”.

4 In section 9 (removal and appointment of trustees: property), after “a trustee” insert “or a trustee is removed under section 3A”.

*Pensions Act 2004 (c. 35)*

5 The Pensions Act 2004 is amended as follows.

6 In section 10 (functions exercisable by the Determinations Panel), in subsection (6), after paragraph (e) insert –

“(ea) section 3A(3) of that Act (application for waiver of prohibition);”.

7 In section 66 (register of prohibited trustees), in subsection (1), for the words from “of all” to the end substitute “(“the prohibition register”) of –

(a) all persons who are prohibited under section 3 of the Pensions Act 1995, and



- (b) all persons appearing to the Regulator to be prohibited under section 3A of that Act.”
- 8      In section 96 (Pensions Regulator’s regulatory functions: standard procedure), in subsection (6), after paragraph (i) insert—
  - “(ia) the power under section 3A(3) of that Act to give a notice waiving a prohibition;”.
- 9      In section 97 (Pensions Regulator’s regulatory functions: special procedure), in subsection (5), after paragraph (j) insert—
  - “(ja) the power under section 3A(3) of that Act to give a notice waiving a prohibition;”.
- 10    (1) Schedule 2 (Pensions Regulator’s reserved regulatory functions) is amended as follows.
  - (2) After paragraph 5 insert—
    - “5A      The power under section 3A(3) to give a notice waiving a prohibition.”
  - (3) In paragraph 9(a), after “orders)” insert “or by section 3A”.

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as published in draft in January 2013*

## **PENSIONS BILL**

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### **EXPLANATORY NOTES**

#### **INTRODUCTION**

1. These explanatory notes relate to the Pensions Bill as published in draft in January 2013. They have been prepared by the Department for Work and Pensions in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament. References to “the Bill” in these explanatory notes are to the draft Bill.
2. These notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require explanation or comment, none is given.

#### **BACKGROUND**

3. The Pensions Bill contains significant reforms to both the state pension system and bereavement benefits. It amends the timetable for increasing pensionable age to 67 and also introduces a framework for considering future increases in pensionable age. It also contains a number of amendments in relation to private pensions legislation, including a power to ban the practice of providing non-pension incentives to encourage individuals to transfer from a salary-related occupational pension scheme.
4. For ease of reference, please note the following abbreviations for existing pieces of legislation are used in these notes:
  - SSCBA 1992 – Social Security Contributions and Benefits Act 1992
  - SSAA 1992 – Social Security Administration Act 1992
  - PSA 1993 – Pension Schemes Act 1993
  - PA 1995 – Pensions Act 1995
  - PA 2004 – Pensions Act 2004
  - PA 2007 – Pensions Act 2007
  - PA 2008 – Pensions Act 2008

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### **State pension system**

5. In April 2011, the Government published a Green Paper, *A state pension for the 21st century* (Cm 8053), which consulted on two broad options for reforming the state pension system for future pensioners. This was followed in January 2013 by a White Paper, *The single-tier pension: a simple foundation for saving* (Cm 8528), which outlined how the Government intends to reform the state pension. Those proposals form the basis for the measures in Part 1 of the Bill.

### **Pensionable age**

6. The PA 1995 legislated to equalise women's pensionable age with men's between 2010 and 2020, through gradually increasing women's pensionable age from 60 to 65.

7. The PA 2007 then provided for increasing the pensionable age for all to 66 between 2024 and 2026, to 67 between 2034 and 2036, and to 68 between 2044 and 2046.

8. The PA 2011 accelerated the rate at which women's pensionable age equalised. It also brought forward the period in which pensionable age would increase from 65 to 66. This reflected increases in life expectancy at pensionable age since the original timetable to increase pensionable age was set in 2007. On 29 November 2011, the Chancellor of the Exchequer announced the Government's intention to legislate to bring forward the increase to 67.

9. In addition to consulting on reform of the state pension *A state pension for the 21st century* (Cm 8053) also sought views on options for managing future increases to pensionable age in response to ongoing increases in life expectancy projections. This was followed in January 2013 by *The single-tier pension: a simple foundation for saving* (Cm 8528), in which the Government set out their framework for considering future increases in pensionable age.

### **Bereavement benefits**

10. A separate public consultation was undertaken in respect of bereavement benefits with the publication of *Bereavement benefit for the 21st century* (Cm 8221) in December 2011. The Government published its response to the consultation in July 2012 and this outlined how the suite of benefits paid on bereavement would be reformed.

## **SUMMARY**

11. The legislation creates a new state pension for people reaching pensionable age after it comes into force. A person entitled to the full state pension will be paid a

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single weekly rate to be set out in regulations. This replaces the current state pension, which has two components: a basic state pension and an additional state pension. The amount paid to an individual from each of these components is based on complicated calculations to do with the amount of National Insurance contributions they have paid, been treated as having paid, or been credited. The Bill contains special provisions for people who have made National Insurance contributions before it comes into force to ensure that all their National Insurance contributions are taken into account (subject to a minimum qualifying years requirement).

12. The Bill also makes provision for a number of changes that are a corollary of the introduction of the new state pension. These include the abolition of contracting-out for salary-related occupational pension schemes and the abolition of the savings credit element of State Pension Credit for those who reach pensionable age on or after the introduction of the new scheme.

13. The Bill also makes changes to the timetable for increasing pensionable age from 66 to 67 that was originally set out in the PA 2007, bringing it forward by eight years to begin in 2026 and end in 2028.

14. The Bill includes measures to introduce a framework of periodic reviews to consider whether the pensionable age should be changed. The review will be informed by reports from the Government Actuary's Department about life expectancy and from an independently-led body on wider factors. These wider factors will be specified by the Secretary of State at that time.

15. In addition, the Bill contains measures to reform benefits for bereavement by introducing a new Bereavement Support Payment. This will replace the existing suite of benefits for customers whose spouse or civil partner dies on or after the date it is introduced. The new benefit will provide support for the period immediately following bereavement.

16. Finally, the Bill contains a number of measures related to private pension legislation. These consist of miscellaneous amendments and include technical amendments to the PA 2004 and the PA 2008 designed to improve operational processes for the Pensions Regulator and to correct anomalies in relation to the automatic re-enrolment duties for employers and the Regulator's penalty powers. There is also provision to regulate to ban the practice of providing incentives to encourage individuals to transfer a cash equivalent value of their accrued rights from a salary-related occupational pension scheme to an alternative arrangement.

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## **OVERVIEW OF STRUCTURE OF THE BILL**

17. The Bill is in five parts:

### **Part 1 – State pension**

18. This Part of the Bill contains provisions to reform the state pension system and introduce a new state pension. It replaces the current two-component system with a single-component flat-rate pension. It includes transitional provisions for:

- people who have paid, been treated as having paid or been credited with National Insurance contributions in respect of tax years before the introduction of the new state pension;
- inheriting entitlement from a late spouse or civil partner who had made National Insurance contributions in respect of tax years before the introduction of the new state pension;
- women who, before 1977, elected to pay a reduced rate of National Insurance contributions;
- sharing pension with a former spouse or civil partner upon divorce.

19. Provisions are made to allow people to postpone or suspend their entitlement to a state pension. It also contains provisions for a number of changes arising from the introduction of the new state pension, including the abolition of contracting-out for salary-related occupational pension schemes and the abolition of the savings credit element of State Pension Credit for those people who reach pensionable age on or after the introduction of the new state pension.

### **Part 2 – Pensionable age**

20. This Part contains two measures relating to pensionable age. The first amends the PA 1995 to begin the increase of pensionable age from 66 to 67 eight years earlier. The increase will begin in 2026 and end in 2028.

21. The second measure provides for a periodic review of pensionable age and for the review to be informed by reports from the Government Actuary's Department, in relation to life expectancy, and from an independently-led body on other factors specified by the Secretary of State at the time.

### **Part 3 – Bereavement support payment**

22. This Part of the Bill contains provisions to reform bereavement benefits and introduce a new Bereavement Support Payment.

### **Part 4 – Private pensions**

23. This Part contains a number of measures related to private pension legislation, including:

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- various technical amendments to the PA 2004 and the PA 2008 designed to improve operational processes for the Pensions Regulator and correct anomalies in relation to the automatic re-enrolment duties for employers and the Regulator's penalty powers;
- a provision for regulations to be made banning the practice of providing incentives which encourage individuals to transfer a cash equivalent value of their accrued rights from a salary-related occupational scheme to an alternative arrangement; and
- an amendment to companies legislation to make it clear that the body preparing guidance in relation to pension illustrations may benefit from the exemption from liability for damages.

### **Part 5 – Final provisions**

24. These five clauses relate to the power to make consequential amendments, general provision in respect of regulations and orders under the Bill, the Territorial Extent of the Bill, the commencement of provisions in the Bill and the short title of the Bill.

## **TERRITORIAL EXTENT**

25. The Bill extends to England and Wales and to Scotland. In relation to Northern Ireland, the measures in the Bill relate to devolved matters and legislation relating to such measures is the responsibility of the Northern Ireland Assembly.

## **COMMENTARY ON CLAUSES**

### **Part 1 – State pension**

#### **Clause 1 State pension**

#### **Clause 2 Entitlement to state pension at full or reduced rate**

#### **Clause 3 Full and reduced rates of state pension**

26. These clauses create a benefit – referred to in the Bill as “state pension”.

27. Although the term “state pension” has been commonly used to refer to category A to category D contributory and non-contributory pensions paid under the SSCBA 1992 since the mid-1990s, in current legislation these are referred to as “retirement pensions”.

28. The current retirement pension scheme will not be available for those reaching pensionable age on or after the start date for the new state pension.

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29. The full rate of the new state pension that will apply for the first year will be set by regulations prior to commencement of these clauses. Thereafter, it will be up-rated each year (see paragraph 32). The basic conditions of entitlement for the new state pension at the full rate will be:

- that the person has attained pensionable age; and
- that the person has 35 or more ‘qualifying years’ of National Insurance contributions.

30. Where an individual has fewer than 35 qualifying years, his or her entitlement will be pro-rated and each qualifying year of National Insurance contributions will entitle him or her to one 35<sup>th</sup> of the full rate (Clause 3).

31. However, entitlement will be subject to a minimum number of qualifying years to be specified in regulations (Clause 2).

32. The provision for the new state pension to be up-rated (annual increases to the pension in payment) reflects that for basic retirement pension (Schedule 12, paragraph 13) – that the Secretary of State must increase the benefit by a percentage not less than the percentage annual increase in the general level of earnings.

33. These clauses apply to people who do not have any qualifying years attributable to tax years prior to the introduction of the new state pension

34. Transitional arrangements apply to those who have qualifying years referable to the years before commencement and attain pensionable age after commencement of the new system – see the commentary on Clauses 4 and 5.

**Clause 4 Entitlement to state pension at transitional rate**

**Clause 5 Transitional rate of state pension**

**Clause 6 Recalculation and backdating of transitional rate in special cases**

**Schedule 1 Transitional rate of state pension: calculating the amount**

**Schedule 2 Transitional rate of state pension: up-rating**

35. These clauses make transitional provision for pension entitlement for those who reach pensionable age on or after the date the new state pension is introduced and have qualifying years attributable to tax years prior to the introduction.

36. The provision is transitional because at some point in the future people will only have qualifying years attributable to the period after the new state pension is introduced and their entitlement will be calculated under the rules explained in Clauses 1 to 3. The persons unaffected by the transitional provision will be those who:

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- are under age 16 when the new state pension is introduced, so they will not have yet entered the National Insurance scheme;
- arrive in the UK for the first time after introduction of the new system; or
- for some reason have not paid, or received credit, into the National Insurance scheme or have not made enough contributions to achieve a ‘qualifying year’.

37. The calculation of the rate of state pension for people who have qualifying years attributable to tax years prior to introduction (called “transitional rate” here) is set out in Schedule 1. The calculation takes into account the contribution history of the person before the new state pension scheme starts when determining any future pension entitlement.

38. Under current rules a person may become entitled to different components of retirement pension depending on when and at what level contributions have been made. Earnings-related contributions made between 1961 and 1975 provide entitlement to graduated retirement benefit. Provided that sufficient contributions are made at the lower earnings limit for National Insurance in a tax year that year will be a qualifying year for basic State Pension purposes. Since 1978 contributions that are made on earnings above the annual lower earnings limit in a tax year are relevant for entitlement to the additional pension.

39. The first step in the calculation of the transitional rate entails working out a person’s entitlement under current scheme rules, as if he or she had reached pensionable age on the day the new state pension scheme is introduced and had the new state pension scheme not been introduced. This represents a snapshot in time of any graduated retirement benefit, basic State Pension and additional State Pension to which he or she would have been entitled.

40. The second step involves working out entitlement under the state pension rules had they applied before the start date. This valuation is based on the qualifying years generated before the start date. Where a person has 35 or more qualifying years at the start date the valuation would be based on the maximum state pension amount payable at that date. Otherwise it would be based on a reduced rate matching the number of qualifying years accrued at that date.

41. In both of these calculations an amount to reflect contracting-out under the current system is deducted. However, where after the start date a person leaves his or her contracted-out pension scheme and under the rules of the scheme is not entitled to a contracted-out pension his or her transitional rate would be re-calculated as if he or she had never been contracted out (Clause 6).

42. The third step requires a comparison of the two calculations with the more beneficial used as the basis of a person’s transitional rate. This transitional rate may



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exceed the full rate of state pension. This will be the case where the person, but for the introduction of the new state pension, would have been entitled to a significant amount of additional pension.

43. If at the start date the person has a transitional rate lower than the full rate of state pension, he or she can continue to add qualifying years to his or her entitlement – even if he or she already had 35 or more qualifying years before the start date – up to a maximum number that would provide entitlement to the full rate of state pension.

44. A minimum number of qualifying years will also apply to the transitional rate. This will be set out in regulations.

45. Schedule 1 also provides for the revaluation of the transitional rate prior to pensionable age. The value of the transitional rate up to the full rate of state pension is to be revalued by earnings or higher (as with the state pension rate – see paragraph 32). Any excess over that rate will be revalued in line with the annual increase in the general level of prices.

46. Schedule 2 provides for the up-rating of the transitional rate (annual increases to the pension in payment). The value of the transitional rate up to the full rate of state pension is to be up-rated by earnings or higher. Any excess will be up-rated in line with the annual increase in the general level of prices.

**Clause 7 Survivor's pension based on inheritance of additional old state pension**

**Schedule 3 Survivor's pension under section 7: inherited amount**

**Schedule 4 Survivor's pension under section 7: up-rating**

47. In the current retirement pension system, a person who is, or who has been, married or in a civil partnership may be entitled to a state pension based on the National Insurance record of their spouse or civil partner. This will not be the case for those reaching pensionable age after the start date of the new state pension.

48. There are two exceptions; one set out in this Clause and one set out in Clauses 11 and 12 – see paragraphs 61 - 65 below.

49. This Clause and these Schedules provide that a person is able to inherit an amount on the basis of the additional pension that his or her late spouse or civil partner was or would have been entitled to in the current retirement pension scheme. Schedule 3 provides for the conditions of entitlement to this inherited state pension.

50. The amount that the survivor will be entitled to depends on whether his or her spouse or civil partner was in the current retirement pension scheme or in the new state pension scheme. That is, whether the spouse or civil partner either reached

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pensionable age, or died under pensionable age, before or after the new state pension start date.

51. In all cases, entitlement to an inherited amount under this Schedule will be conditional on the marriage or civil partnership existing before the scheme is introduced. A person who becomes entitled to an inherited amount on or after reaching pensionable age will not lose it if he or she subsequently remarries or forms a civil partnership. However, as that marriage or civil partnership will have taken place after new state pension is introduced, if the new spouse or civil partner dies the existing inherited amount will not be replaced with an inherited amount from the most recent spouse or civil partner, even if it would have been a higher amount.

52. Where the survivor is in the new state pension scheme and the late spouse or civil partner was in the current retirement pension scheme then the survivor could be entitled to inherit an amount based on the amount of additional pension that person would have been entitled to under the current Category B retirement pension rules.

53. Where the survivor is in the new state pension scheme and the late spouse or civil partner was also in the new state pension scheme then the survivor could be entitled to inherit half of the amount by which the late spouse or civil partner's transitional rate of pension exceeds the full state pension rate.

54. Under the current retirement pension scheme a person bereaved under pensionable age is entitled to a Category B pension if they were previously entitled to Bereavement Allowance or Widowed Parent's Allowance. This Bill will replace the existing range of bereavement benefits with a Bereavement Support Payment for people whose spouse or civil partner dies on or after the date of introduction (see 'Part 3 – Bereavement support payment below'). The Category B pension rules are therefore modified to enable a person who is bereaved on or after that date while under pensionable age and whose spouse or civil partner reached pensionable age in the current retirement pension scheme to inherit additional pension if he or she qualified for Bereavement Support Payment and satisfied the other rules for entitlement.

55. Schedule 4 provides for the up-rating (annual increases) of inherited amounts. The basic principle is that, as with the transitional rate, the survivor's pension (including inherited amount) up to the full rate of the state pension should be up-rated by reference to earnings and excess amount by prices.

56. Where the survivor is in the current retirement pension scheme but the late spouse or civil partner was in the new state pension scheme, the survivor could, as now, be entitled to a Category B pension (comprising both basic and additional pension) but it will be based only on contributions the spouse or civil partner made for the period before the new state pension scheme was introduced (Schedule 12, Part 2).

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**Clause 8 Choice of lump sum or survivor's pension under section 9 in certain cases**

**Clause 9 Survivor's pension based on inheritance of deferred old state pension**

**Clause 10 Inheritance of graduated retirement benefit**

**Schedule 5 Survivor's pension under section 9: inherited deferral amount**

57. In the current retirement pension scheme, individuals can choose not to claim their state pension at pensionable age and, as a consequence, will qualify for either an increase to their weekly pension (known as increments) or for a lump-sum payment from the point they claim (subject to some conditions). This is known as deferral.

58. These clauses and Schedule relate to the inheritance of deferred state pensions and deferral awards under the current retirement pension scheme (see paragraphs 76 to 78 below for an explanation of how deferral will work under the new state pension system). Where a late spouse or civil partner reached pensionable age before the start date of the new state pension and deferred their state pension, the survivor can inherit the deceased's deferred pension (regardless of whether they reach pensionable age before or after the start date) as under the current rules. It is not, however, possible for a person who reaches pensionable age on or after the start date to pass on deferral increments to his or her spouse. Regulations may also provide for the inheritance of deferred graduated retirement benefit.

59. However, unlike the current inheritance arrangements, the provisions in Schedule 5 mean that, for an individual who reaches pensionable age on or after the start date of the new state pension, it will no longer be possible to inherit increments that were accrued by his or her late spouse or civil partner's former spouse or civil partner, except for any increments that the individual's deceased spouse built up on any increments that he or she inherited. For example, Mr A (who reached pensionable age before the start date) is deferring his pension and is married to Mrs A (who reached pensionable age after the start date). Mr A dies and Mrs A inherits increments from him that are paid with her pension, including increments that Mr A built up on any increments that he inherited from a former spouse or civil partner. However, she does not inherit the increments that Mr A inherited.

60. If Mrs A marries Mr B, and Mrs A-B dies, Mr B cannot inherit increments from her that were originally accrued by Mr A's period of deferral.

**Clause 11 Reduced rate elections: pension for women with no section 4 pension**

**Clause 12 Reduced rate elections: effect on section 4 pension**

**Schedule 6 Reduced rate elections: basic amount of state pension under section 11**

**Schedule 7 Reduced rate elections: effect on rate of section 4 pension**

61. Until 1977, married women and widows in employment could opt out of any future entitlement to a state pension in their own right by paying National Insurance at

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a reduced rate. Women who were self-employed could choose not to pay the flat-rate self-employed stamp. This was referred to as a “reduced-rate election”. Women who took a reduced-rate election gained entitlement to a state pension by relying on their spouse’s National Insurance record.

62. For those reaching pensionable age on or after the start of the new scheme, this Bill removes the ability for an individual to rely on his or her spouse or civil partner’s National Insurance record (other than the provision for surviving spouses and civil partners to inherit pension, as described above) but does provide for alternative arrangements in the case of certain women who made reduced-rate elections.

63. This arrangement will apply if a reduced-rate election had been in force at the start of the final 35 years before the woman reached pensionable age.

64. Schedule 6 provides that, where the conditions are met, a woman with no entitlement to a state pension under Clause 4 is entitled to the equivalent of the current scheme’s basic state pension for a spouse or civil partner (currently approximately 60 per cent of the full rate basic state pension) at the date she becomes entitled to it. As with the current scheme’s Category B pension, this will be payable when both she and her husband have reached pensionable age. Unlike the current scheme however, the amount will not be dependent on her husband’s National Insurance record. It will be up-rated in the same way as the state pension. It also provides the equivalent of the full-rate basic state pension for a woman who is divorced or widowed either at, or subsequent to, pensionable age.

65. A further arrangement, provided for in Clause 12 and Schedule 7 provides for the application of a comparable provision for a woman who has similarly held a reduced rate election but where she does have some qualifying years attributable to the period before the new state pension is introduced, and so has some entitlement under Clause 4. This provision ensures that a woman who meets these conditions will receive a transitional rate of state pension at least equivalent to the combination of any additional pension based on her own National Insurance record and the appropriate current scheme basic pension (as above).

**Clause 13 Shared state pension on divorce etc**

**Clause 14 Pension sharing: reduction in the sharer’s section 4 pension**

**Clause 15 Pension sharing: amendments**

**Schedule 8 Pension sharing: appropriate weekly rate under section 13**

**Schedule 9 Pension sharing: up-rating state pension under section 13**

**Schedule 10 Pension sharing: appropriate weekly reduction under section 14**

**Schedule 11 Pension sharing: amendments**

66. Since December 2000, financial settlements on divorce have been able to provide for one party to a divorce to split his or her current or prospective entitlement

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to additional pension with his or her former spouse. The rules on pension sharing have applied to civil partners since December 2005.

67. Where a pension sharing order is made a court will order a percentage split or an amount to be transferred. The apportioned benefits are known as “pension debits” and “pension credits”, created under the Welfare Reform and Pension Act 1999. The former spouse or civil partner (“the transferor”) will have his or her prospective additional pension entitlement reduced by the value of a pension debit and the beneficiary (“the transferee”) will gain entitlement to a pension credit that is equal to the amount of the debit. Pension sharing can be applied to current or prospective entitlement to additional pension or to shared additional pension from a previous divorce.

68. Although the new state pension will not comprise any additional pension, the Bill does allow for pension sharing of the new state pension in certain limited cases.

69. The Bill does not affect the validity of a pension sharing order made against a person in the new state pension system before the Bill comes into force.

70. And it will still be possible in future to make a pension sharing order against a person who has a transitional rate pension under Clause 4 that exceeds the full rate of the state pension. But the pension sharing order can only relate to the amount of that excess.

71. If a pension sharing order has been made against someone in the new state pension system, the rate of his or her state pension under Clause 4 may be reduced (see Clause 14).

72. A person in the new state pension system may also benefit from a pension sharing order made before the Bill comes into force or made against a person in the old state pension system. In this case the person will be entitled to a state pension under Clause 13 based on the pension sharing credit. This will be paid in addition to any state pension to which the person is entitled based on his or her own record of National Insurance. Calculating entitlement in this way means that a person is able to benefit from any qualifying years obtained under the new state pension scheme notwithstanding the award of a pension credit.

73. Schedule 8 sets out the rules for calculating the appropriate weekly rate where a pension sharing order has been made. Schedule 9 provides for increases of shared state pension once in payment.

74. Schedule 10 sets out how a person’s appropriate weekly deduction is calculated where a sharing order has been issued.

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75. Schedule 11 makes changes to existing rules to take account of the introduction of the new state pension. Amongst other things it confines entitlement to a shared additional pension under the current retirement pension scheme to people reaching pensionable age before the start date for the state pension.

#### **Clause 16 Pensioner's option to suspend state pension**

#### **Clause 17 Effect of pensioner postponing or suspending state pension**

#### **Clause 18 Section 17 supplementary: calculating weeks, overseas residents, etc**

76. Clauses 16 to 18 provide for arrangements to defer the payment of a state pension under the new state pension system.

77. In the current retirement pension scheme, individuals can choose not to claim their state pension at pensionable age and, as a consequence, will qualify for either an increase to their weekly pension (known as increments) or for a lump-sum payment from the point they claim (subject to some conditions). This is known as deferral.

78. The basic principle of deferral is being retained for the new state pension, but only the ability to accrue a weekly increase. The ability to accrue a lump-sum will end for those who reach pensionable age on or after the new state pension start date. The accrual rate of the weekly increase will be set out in regulations (see *Clause 17(4)*). There will be no inheritance of a weekly increase accrued by the deferral of a state pension.

#### **Clause 19 Prisoners**

#### **Clause 20 Overseas residents**

79. These clauses provide regulation-making powers to set out the arrangements for prisoners and overseas residents.

80. For prisoners, regulations may provide that a person is not to be paid a state pension while that person is imprisoned, detained in legal custody or unlawfully at large. This is the same as under the current retirement pension system.

81. For overseas residents, regulations may provide that such a person is not entitled to up-rating. This will enable similar provision to be made as under the current retirement pension system. Regulations under this clause will be made taking into account provision under relevant treaties, such as those in respect of the European Union, and bi-lateral treaties providing for reciprocity in social security matters and which cover up-rating.

#### **Clause 23 Amendments**

#### **Schedule 12 State pension: amendments**

82. Schedule 12 provides for a number of amendments to other legislation that relates to the introduction of the new state pension.

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83. Schedule 12, Part 1 contains amendments that are related to the state pension scheme. For example, Schedule 12, paragraphs 12 to 19 amend the general revaluation and up-rating provisions in the SSAA 1992.

84. Part 2 contains amendments to do with the current retirement pension system.

85. The amendments limit the current retirement pension system to people reaching pensionable age before the Bill comes into force.

86. Part 2 also removes several aspects of the current retirement pension system for those reaching pensionable age after the state pension start date:

- Category C pension. This category of pension was introduced by the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act 1970 to provide non-means tested pensions to those who had reached pension age before the National Insurance scheme started in 1948 and had not been insured under the pre-1948 provisions. Provision is removed for anyone reaching pensionable age on or after the new state pension start date. The only people who in fact could now be entitled to a Category C pension are widows of individuals who reached pensionable age before 5th July 1948.
- Category D pension. Category D non-contributory pensions for those aged 80 and over were introduced by the National Insurance Act 1971 to help a number of elderly people without access to a pension. Changes made to the retirement pension since then (largely the reduction of the number of qualifying years needed for a state pension and changes to National Insurance credits) mean that the number of recipients is declining and expected to decline further. Provision remains for those reaching pensionable age before the new state pension start date but is not replicated for those reaching pensionable age thereafter.
- The age addition. The age addition to contributory and non-contributory retirement pensions is paid to people aged eighty or over. It was introduced in 1971 but has never been increased from 25 pence. Provision remains for those reaching pensionable age before the new state pension start date but is not replicated for those reaching pensionable age thereafter.

87. Part 3 of Schedule 12 provides for the abolition of the savings credit element of State Pension Credit. The Bill stipulates that savings credit is only payable (from the savings credit qualifying age of 65) to those who have reached pensionable age before the new state pension start date.

88. An individual who does not meet these criteria could still qualify if he or she is a member of a couple and the other member qualifies. However, a power is given to

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the Secretary of State to specify the circumstances in which entitlement is restricted for these cases (mixed-age couples).

89. Part 4 contains miscellaneous amendments relating to the introduction of the new state pension. These include repealing provisions in the PA2008 for consolidating the additional pension which are not required as a result of the introduction of the new state pension.

#### **Clause 24 Abolition of contracting-out for salary related schemes etc**

##### **Schedule 13 Abolition of contracting-out for salary related schemes**

##### **Schedule 14 Power to amend schemes to reflect abolition of contracting-out**

90. Since 1961 it has been possible for sponsoring employers of salary-related occupational pension schemes to contract their employees out of the additional pension on the condition that they would provide an occupational pension meeting certain statutory requirements (these have changed over the years).

91. In return for the employer providing a pension meeting the statutory minimum, both the employer and employee pay reduced rates of National Insurance (employer contributions are currently reduced by 3.4% and employee contributions by 1.4%).

92. In 1988, it became possible for employers to contract out their employees into a defined contribution occupational pension scheme, and for individuals to contract out into a personal pension scheme. However, the PA 2007 abolished these options from 6 April 2012.

93. Introduction of the new state pension results in the ending of the additional pension for those reaching pensionable age after the start date. Clause 24 and Schedules 13 and 14 provide for the ending of the option for sponsoring employers of salary-related occupational pension schemes to contract their employees out of the additional pension. This option will end on the start date of the new state pension.

94. As well as removing redundant provisions, the amendments to the PSA 1993 and other pensions legislation in Clause 24 and Schedules 13 and 14 are intended to serve two main purposes.

95. Firstly, to ensure that all contracted-out rights accrued by employees through salary related contracted-out schemes prior to the abolition of contracting-out are fully protected. To protect accrued rights, Schedule 13, paragraph 13, inserts new section 12E into the PSA 1993. Section 12E requires former salary-related contracted-out schemes to meet the requirements in the PSA 1993 in relation to Guaranteed Minimum Pensions. Section 12E deems scheme rules to comply with all the requirements, overriding the rules if necessary. Schedule 13, paragraph 17 amends



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Section 17 of the PSA 1993 to reflect the end of current state pension so that inherited guaranteed minimum pensions will be payable in the same circumstances as now.

96. Second, to enable sponsoring employers of contracted-out schemes to change the rules of their pension schemes (where they are prevented from doing so) to adjust members' future pension accruals or pension contributions to take account of the loss of the employer's rebated National Insurance contributions. *Clause 24(2)* and Schedule 14 provide a power for sponsoring employers to amend their scheme rules to decrease scheme costs in order to offset the increase in National Insurance contributions - for example, by reducing scheme benefits for future accruals. Following the end of contracting-out, employers and members of contracted-out salary-related schemes will have an increase in National Insurance contributions. They will pay the same rate of National Insurance as other employers and employees. This power will be available for five years (*Clause 24(6)*). The power cannot be used to change the rules of public service pension schemes or other types of scheme (which may be prescribed in regulations under *Clause 24(3)*).

## **Part 2 – Pensionable age**

### **Clause 25 Increase in pensionable age to 67**

97. Schedule 4(1) to the PA 1995 stipulates pensionable age for men and women. As amended by the PA 2007 this provides for the increase in pensionable age to 67 to take place between 6 April 2034 and 5 April 2036. This Clause amends these rules to bring forward the increase in pensionable age to 67 to take place between 6 April 2026 and 5 March 2028.

98. Under the new timetable, those born on or after 6 October 1954 but before 6 April 1960 will reach pensionable age on their 66th birthday (*Clause 25(2)*). Those born between 6 April 1960 and 5 March 1961 will have a pensionable age of between 66 years and 1 month and 66 years and 11 months. Those born on or after 6 March 1961 but before 6 April 1977 will reach pensionable age on their 67th birthday (*Clause 25(4)*).

99. The table in *Clause 25(3)* sets out how pensionable age will increase from 66 to 67. Individuals in each one month birth cohort affected by the transitional arrangements will reach pensionable age when they reach age 66 and the specified number of months. For example:

- An individual born on 15 April 1960 reaches pensionable age when they reach age 66 and one month on 15 May 2026.
- An individual born on 10 September 1960 reaches pensionable age when they reach age 66 and 6 months on 10 March 2027.

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- An individual born on 22 January 1961 reaches pensionable age when they reach age 66 and 10 months on 22 November 2027.

100. There are three instances during the transition period where an individual may be born in a calendar month which has more days than the relevant month in which he or she would reach pensionable age. Clause 25(3) provides that those individuals will reach pensionable age on the day before he or she would otherwise be scheduled to reach pensionable age. For example:

- An individual born on 31 July 1960 cannot reach pensionable age when he or she reaches age 66 and four months because November only has 30 days. He or she will therefore be treated as reaching pensionable age on 30 November 2026.

#### **Clause 26 Periodic review of rules about pensionable age**

101. This Clause provides for a periodic review by the Secretary of State of the pensionable age in the light of changes in life expectancy and other relevant factors. It also places a requirement for the Secretary of State to prepare and publish a report in relation to the review. The first report must be published before 7 May 2017. This is two years after the polling day for the next parliamentary election as provided under the Fixed-term Parliaments Act 2011. Future reports must then be published within six years of the previous report. The Government has announced they intend to consider whether the rules relating to pensionable age are appropriate every five years (once every parliament). However the reference to six years allows some flexibility around the publication date for the report.

102. To inform the review, the Secretary of State must commission the Government Actuary or Deputy Government Actuary to prepare a report on whether the rules on pensionable age mean that, on average, a person who reaches pensionable age within a specified period can be expected to spend a specified proportion of his or her adult life in retirement. If the rules on pensionable age mean that this is not the case, the report will suggest how the rules might be changed to attain the result. The Secretary of State will specify both the age at which adult life is to be taken as beginning and the proportion of adult life in retirement when commissioning the report from the Government Actuary or Deputy Government Actuary.

103. In addition to the report from the Government Actuary or Deputy Government Actuary, the Secretary of State must also appoint a panel of one or more persons to consider factors relevant to the pensionable age. The panel must prepare a report for the Secretary of State. When appointing the panel, the Secretary of State will specify the relevant factors.

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104. The Secretary of State will consider both of these reports in reviewing whether pensionable age should change. If any change to pensionable age is contemplated then the Government will introduce primary legislation to this end.

### **Part 3 – Bereavement support payment**

#### **Clause 27 Bereavement support payment**

#### **Clause 28 Bereavement support payment: contribution condition and amendments**

#### **Schedule 15 Bereavement support payment: amendments**

105. These clauses describe the entitlement criteria and supporting contribution condition for the Bereavement Support Payment, which will replace the existing range of bereavement benefits for persons whose spouse or civil partner dies on or after the date the new Bereavement Support Payment is introduced.

106. A person will be entitled to Bereavement Support Payment if he or she is under pensionable age at the time of his or her spouse or civil partner's death and the contribution condition is met.

107. In order to meet the contribution condition for Bereavement Support Payment, the deceased spouse or civil partner must have paid Class 1 or 2 National Insurance contributions at or greater than 25 times the lower earnings limit (as defined in the SSCBA 1992) for any one tax year prior to his or her death.

108. The contribution condition will be considered to have been met if the deceased spouse or civil partner died as a result of an industrial injury or accident, as provided for by the industrial injuries benefit legislation in the SSCBA 1992.

109. The amount of the benefit and period the payments will cover will be prescribed in regulations. Regulations may also allow different rates of payments over different periods. If a person is pregnant or entitled to child benefit, then regulations may provide for him or her to receive a higher rate of payment or a longer payment period.

110. Bereavement Support Payment will not be payable to anyone over pensionable age; if a person is entitled to Bereavement Support Payment when he or she reaches pensionable age his or her entitlement will cease and he or she will not receive any further payments.

111. Schedule 15 details the relevant consequential amendments to existing legislation to reflect the introduction of Bereavement Support Payment.

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## **Part 4 – Private pensions**

### **Clause 29 Power to prohibit offer of incentives to transfer pension rights**

#### **Clause 30 Expiry of power in Section 29**

112. Clause 29 allows the Secretary of State to make regulations to prohibit a member of a salary-related occupational pension scheme from being offered a financial or similar incentive to transfer their rights out of that pension scheme into another pension scheme or arrangement. Regulations may provide that the prohibition applies to the offer of an incentive by the person who will provide the incentive, or by another person, for example, an agent. It also provides for penalties to be introduced if the prohibition is contravened.

113. Clause 30 provides that Clause 29 will be repealed seven years after the section has come into force if the powers granted have not been exercised.

### **Clause 31 Prohibition and suspension orders: directors of corporate trustees**

#### **Schedule 16 Prohibition orders: consequential amendments**

114. The Pensions Regulator has the power to suspend and prohibit trustees from acting as trustees in the future if they are not deemed to be a *fit and proper person to be a trustee of the scheme*. However if a prohibited trustee becomes the director of a company which acts as a trustee of a scheme (a corporate trustee) then currently there is no restriction on the ability of that company to operate as a corporate trustee.

115. This Clause rectifies this by prohibiting a company from being a trustee if one or more of its directors have been prohibited by the Pensions Regulator. The prohibition is immediately removed if the director(s) who has/have been prohibited as individual trustee(s) leave(s) the board of the company. In addition, the company is allowed to apply to the Pensions Regulator for the prohibition to be waived.

116. The Pensions Regulator has the power to suspend a trustee “pending consideration being given to the institution of proceedings against him for an offence involving dishonesty or deception”<sup>1</sup>. *Clause 31(3) to 31(4)* allows the Pensions Regulator to suspend a corporate trustee where it or one of its directors could be suspended under the original power.

### **Clause 32 Preparation of guidance for pensions illustrations**

117. Occupational, personal and stakeholder pension schemes are required by regulations to provide a Statutory Money Purchase Illustration (SMPI) to members on an annual basis.

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<sup>1</sup> Section 4(1)(aa) Pensions Act 1995

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118. In producing the SMPI, relevant pension schemes must comply with guidance, which at present is contained within a document entitled “Technical Memorandum TM1: Statutory Money Purchase Illustrations”. This is currently issued by the Financial Reporting Council Ltd (FRC).

119. Section 18 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 exempts a body given a grant by the Secretary of State from liability in damages that arise from certain activities. These activities are set out in section 16(2) of that Act.

120. The measure provides for FRC’s exemption from liability for damages arising from the production of an SMPI based on its technical memorandum by amending the Companies (Audit, Investigations and Community Enterprise) Act 2004.

**Clause 33 Maximum period between scheme returns to be 5 years for micro schemes**

121. All occupational pension schemes are required to complete a scheme return at least once every three years. This is sent to the Pensions Regulator and provides up-to-date information about the scheme.

122. The Clause increases the maximum period between scheme returns to five years for schemes that have no more than four members (the number of members is determined either by the information sent to register the scheme or the last scheme return).

**Clause 34 Automatic re-enrolment: exceptions where automatic enrolment deferred**

123. Employers are obliged to automatically enrol workers who satisfy age and earnings criteria into a qualifying workplace pension scheme. However, they are allowed to postpone automatic enrolment by up to three months.

124. Where an employer has an open defined benefit or hybrid scheme that they intend to use for automatic enrolment they may instead, and subject to certain conditions, defer automatic enrolment for jobholders who satisfy those conditions until the end of a transitional period in September 2017. At the end of that transitional period, the individual must be automatically enrolled, provided that he or she satisfies the age and earnings conditions. However, an employer deferring automatic enrolment until the end of the transitional period may, if it chooses, use the waiting period afterwards. It would thereby postpone auto-enrolment by up to a further three months.

125. Automatic enrolment by the employer is compulsory: pension saving by the worker is not. An individual who decides that he or she does not want to continue

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saving into the scheme into which he or she has been automatically enrolled may opt out within a specified window. This window is one month from the later of the date that the individual becomes an active member of the scheme and the date he or she is given the enrolment information by the employer. If, however, he or she continues to save into the scheme but subsequently decides to withdraw, he or she may cancel his or her active membership at any time.

126. The employer must carry out an automatic re-enrolment exercise approximately every three years to re-enrol those who opted out or cancelled their membership. The cyclical automatic re-enrolment dates are employer specific. Deferral dates and immediate re-enrolment dates are specific to the worker.

127. There is a flaw in the PA 2008 whereby the employer's re-enrolment duty could result in the permitted deferral or postponement period being curtailed. This is because an employer's cyclical re-enrolment date could fall within a period where an individual's automatic enrolment date has legitimately been deferred or postponed. This Clause corrects that flaw.

128. The Clause removes the duty of the employer automatically to re-enrol an eligible individual if auto-enrolment has been postponed for a period of up to three months (*Clause 34(2)*) or deferred to the end of the transitional period in the case of a defined benefit or hybrid scheme (*Clause 34(3)*).

### **Clause 35 Penalty notices under sections 40 and 41 of the Pensions Act 2008 etc**

129. The Pensions Regulator has the power, under the PA 2008, to issue a penalty notice for failure to comply with information notices (issued when the Pensions Regulator requires specific information). Currently the Pensions Regulator could issue a penalty notice, under that power, for non-compliance with a notice that sought information required in connection with the Regulator's general compliance functions, as set out in the PA 2004.

130. This Clause means that penalty notices can only be used, as originally intended, for non-compliance with information notices issued with respect to the Pensions Regulator's compliance function in relation to the employer duties, as set out in Part 1 of the PA 2008.

131. In exercising this power, the Pensions Regulator can (for the PA 2008 purposes) request an explanation of the relevant information or require the recipient to explain in person at the Regulator's offices. The policy intent was for this power to be available for information notices issued in relation to any of the Regulator's new employer compliance functions. *Clause 35(2)* extends this power to include all of the Regulator's functions set out in Part 1 of the PA 2008.

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## **Part 5 – Final provisions**

### **Clause 36 Power to make consequential amendments etc**

#### **Clause 38 Extent**

132. The Bill extends to England, Wales and Scotland. Part 5 also extends to Northern Ireland in order that consequential amendments under Clause 36 can be made to legislation that has a UK-wide extent.

## **FINANCIAL EFFECTS OF THE BILL**

133. A summary of the financial effects of the different measures of the Bill is provided below. Further detail is available in the Impact Assessment.

### **State pension**

134. The state pension reforms have been designed to cost no more than the current system expenditure. In the long-term, savings to the Exchequer will be delivered as spending on pensioner benefits will increase at a slightly slower rate than under the current system. The end of contracting-out for salary-related occupational pension schemes means that the Exchequer accrues additional National Insurance contributions.

### **Bringing forward the increase in pensionable age to 67**

135. Bringing forward the increase in pensionable age to 67 to between 2026 and 2028 delivers approximately £63 billion savings in Annually Managed Expenditure when compared to the existing timetable set by the PA 2007.

### **Periodic review of pensionable age**

136. There will be a comparatively small administrative cost to undertake the review. However, any decision to change pensionable age as a result of a review will have a significant financial effect; the Government will need to bring forward primary legislation to change pensionable age and an estimate of the financial impacts will be produced at that time.

### **Bereavement Support Payment**

137. Reforming the bereavement benefit system will incur a cost to the Exchequer of approximately £1.48 billion over the first four years.

### **Scheme Return Frequency**

138. This measure will deliver savings to business equivalent to £292,000 per annum.

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## **EFFECTS OF THE BILL ON PUBLIC SECTOR MANPOWER**

139. The Impact Assessment has identified, where appropriate, any impacts on the public sector. The majority of the Bill is unlikely to have any significant impact on public sector manpower, although there may be an impact from the introduction of the new state pension. Detailed design and planning work is required before the impact on ongoing manpower costs/savings can be established. The abolition of contracting-out for salary-related occupational pension schemes and the reform of the pension system are expected to deliver administrative savings in the longer term which could translate to modest manpower savings in both the Department for Work and Pensions and Her Majesty's Revenue and Customs. In the short-term, some additional administrative costs may result from operating transitional arrangements.

## **IMPACT ASSESSMENT**

140. The Bill is accompanied by an Impact Assessment. This is available on the Department for Work and Pensions website ([www.dwp.gov.uk/publications/impact-assessments](http://www.dwp.gov.uk/publications/impact-assessments)).

## **EUROPEAN CONVENTION ON HUMAN RIGHTS**

141. In the opinion of the Secretary of State, the provisions of the Bill are compatible with the Convention rights, defined in section 1 of the Human Rights Act 1998.

## **COMMENCEMENT DATES**

142. The provisions in Part 5 (Final provisions) come into force on the day the Bill receives Royal Assent.

143. The provisions in Part 2 – Pensionable age, clauses 29 and 30 (Power to prohibit offer of incentives to transfer pension rights), clause 32 (Preparation of guidance for pensions illustrations), clause 35 (Penalty notices under sections 40 and 41 of the Pensions Act 2008) and paragraph 30(2) of Schedule 13 (removing the duty for the Secretary of State to review and publish a report on the need for an alteration to rebate rates as these will be irrelevant following the abolition of contracting-out) will commence two months after Royal Assent.



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144. The remainder of the Bill will be brought into force by means of commencement orders made by the Secretary of State. An order may appoint different days for different purposes or make transitional provision and savings.



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