PENSION SCHEMES BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by Department for Communities ("the Department") in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. This Bill makes provision for Northern Ireland corresponding to provisions of the Pension Schemes Act 2026 ("the 2026 Act") which was passed by the Westminster Parliament.

4. Although pensions are a devolved matter, in general Northern Ireland's pension policy and legislation operate in line with corresponding pensions provision in Great Britain in line with section 87 of the Northern Ireland Act 1998. In effect there is a single pensions system and regulatory regime across the United Kingdom. Many private pension schemes operating in Northern Ireland are UK-wide schemes. Therefore, it is highly desirable that the same provisions are in place in Northern Ireland to ensure parity across both jurisdictions.

5. The Pension Schemes Bill, alongside the 2026 Act aims to strengthen pension investment by supporting around 20 million people who could benefit from the reforms through better outcomes and greater value in private-sector pension schemes, increasing the amount available to them. The Bill provides for consolidation in the pensions market and focuses on value and outcomes for members and enables pension schemes to invest in a wider range of assets.

6. Measures in the Bill make provision in the following areas:

Power to Pay Surplus

7. The Defined Benefit (DB) funding landscape has significantly improved in recent years. Schemes are well funded, with 3 in 4 schemes having surplus funds. At present, only DB schemes with an existing power to pay surplus, which passed a resolution prior to 2016, are permitted to share surplus funds with a sponsoring employer. This measure

allows trustees of DB schemes to modify their scheme rules to share surplus funds with their sponsoring employer, and support business investment. Through this change, trustees will also be better placed to negotiate with sponsoring employers to get additional benefits from surplus for scheme members.

8. When making decisions about surplus, trustees are subject to their overarching duties, which require them to act in the interests of scheme beneficiaries. Article 37 of the Pensions (Northern Ireland) Order 1995 will be amended to clarify this. Surplus sharing will also remain subject to strict funding safeguards. The relevant funding threshold will be set out in regulations, which will be consulted on.

Value for Money (VFM)

9. This measure is designed to increase comparability, transparency and competition across defined contribution (DC) schemes. It will enable occupational pension schemes to be compared based on the value they provide rather than just their cost. By focusing on long-term returns and investment performance, this measure aims to facilitate investments into higher value asset classes, such as private equity and infrastructure. This shift in focus will encourage pension schemes to prioritise investments that offer better long-term value and drive schemes to address poor value. The objective is to protect savers from remaining in underperforming arrangements and to improve member outcomes through improved investment returns on their pension savings.

Consolidation of Small Dormant Pension Pots

10. The creation of "multiple default consolidators" will address the issue of small, fragmented pension pots. Consolidating these smaller pots into larger ones will reduce waste and ensure people's pots are at lower risk of being lost.

Scale and Asset Allocation

11. The Bill introduces a measure that will require DC multi-employer schemes operating in the Automatic Enrolment market to have £25 billion in assets under management in at least one main scale default arrangement (MSDA) by 2030.

12. The Bill also includes a measure that provides additional time for smaller schemes to reach scale. If a DC multi-employer scheme has at least £10 billion in assets under management in a main scale default arrangement by 2030, they will be able to apply for transition pathway relief, so long as they can satisfy regulators that they have a credible plan to increase that level to £25 billion by 2035.

13. The Bill also includes a measure that would allow regulators to approve new schemes, where they have no members, an innovative product design, and strong potential to grow as to meet the scale requirement of £25bn.

14. To tackle existing fragmentation and prevent future fragmentation, the Bill will also allow the Department to make regulations to restrict the future operation of new non-scale default arrangements and require the consolidation of non-scale default arrangements, linked to a review of existing non-scale default arrangements.

15. The Bill introduces a provision enabling binding percentage targets to be set for asset allocation in core default funds offered by DC pension providers. This power is designed to be used if the pensions industry fails adequately to diversify its investments into private markets, for example by failing to meet voluntary commitments.

Guided Retirement

16. This measure will provide members of occupational pension schemes with solutions to manage their pension savings as they transition into retirement. By offering guided retirement products, the measure enables members to retain their pension assets within the scheme for a longer period, supporting longer-term investment strategies that may lead to better retirement outcomes for members.

Superfunds

17. Defined benefit pension schemes play a key role in the economy. Many employers that support defined benefit pension schemes which are closed to new members, and where buying out these schemes with insurers is not attainable, are looking for ways to secure these liabilities in order to focus on investing in their core businesses. The measures in the Bill will allow schemes in this position to transfer to commercial pension providers called "superfunds".

18. A superfund pension scheme is a defined benefit occupational pension scheme that receives the transfer of assets and liabilities from closed defined benefit occupational pension schemes. The liabilities of the superfund pension scheme are supported by a third-party capital buffer provided by investors. The responsible body of a superfund is a body corporate involved in the management and administration of the superfund pension scheme and in procuring investment for the capital buffer.

19. The UK Government consulted in 2018 on delivering superfunds to promote consolidation in the defined benefit market and committed to legislating for a regulated superfund authorisation regime operating in the United Kingdom to replace the Pensions Regulator's interim supervisory regime.

20. Part 3 of the Bill sets out the key concepts and the legislative framework to allow superfunds to operate, including provisions for superfund pension schemes to be authorised and supervised by the Pensions Regulator, the regulatory interventions available to the Regulator, and requirements relating to the monitoring of funding and investment thresholds.

Pension Protection Fund (PPF) Levy

21. The Bill will give the PPF Board flexibility to reduce the annual levy to zero or a very low amount when it's not needed and increase it again later if required. The Bill will also abolish the PPF Administration Levy, which currently covers admin costs for the PPF and the Fraud Compensation Fund (FCF). In future, these costs will be funded by the Pension Protection Levy and the Fraud Compensation Levy respectively.

PPF / Pensions Dashboard

22. The Bill will amend the Pensions (Northern Ireland) Order 2005 to enable members of the Pension Protection Fund (PPF) and the Financial Assistance Scheme (FAS) to view details of their compensation or assistance funds on pensions dashboards, to allow them to gain a complete picture of their expected retirement income.

Information to be given to pension schemes by employers

23. This measure is to introduce a power for the Department to make regulations requiring employers to provide specified information about jobholders and workers to the trustees, managers, or providers of the pension scheme in which the individual is an active member. The aim is to ensure schemes hold accurate and up-to-date member data, improving engagement and supporting informed decision-making.

CONSULTATION

24. The proposals contained in the Bill are seen as parity measures and correspond to those made in the 2026 Act. The measures outlined in the 2026 Act were subject to extensive consultation through the Westminster process, and the details of the main consultations are outlined below.

25. The UK Government issued a consultation paper, "Options for Defined Benefit Schemes", in February 2024 to gather stakeholders' views on proposals to reform defined benefit pension schemes. The consultation sought views on the treatment of scheme surplus, consolidation options and the establishment of a permanent legislative framework for superfunds. This consultation applied on a UK-wide basis, and stakeholders in Northern Ireland were invited to take part, and the Government response was published in May 2025.

26. The Government also undertook consultation on the consolidation of deferred small pension pots in defined contribution schemes. This included a call for evidence, "Addressing the challenge of deferred small pots", published in January 2023, followed by a consultation entitled "Ending the proliferation of deferred small pension pots", which ran between July and September 2023. These consultation exercises informed the provisions in the Act relating to automatic consolidation of small pension pots. The Government response was published in November 2023.

27. Further consultation and stakeholder engagement on value for money in defined contribution schemes, scheme scale and consolidation, superfunds and pension investment policy contributed to the development of the Act. As with previous pensions legislation, no separate Northern Ireland-specific consultation was undertaken, consistent with established parity arrangements. Further consultations are due to take place in relation to the secondary legislation flowing from the Act, and the intention is that these consultations will be shared in NI.

OPTIONS CONSIDERED

28. As detailed below, many of the provisions in the Bill were developed following comprehensive options appraisals.

Power to Pay Surplus

29. Option 1: Do nothing - doing nothing would leave a large amount of surplus not being effectively utilised.

30. Option 2 (preferred): Introduce powers in Primary Legislation for trustees to modify scheme rules by resolution to allow for sharing of surplus with sponsoring employers, where this is not possible in their existing scheme rules. Surplus extraction would be subject to funding safeguards and a requirement to consider beneficiaries' interests.

31. Option 3: Modify scheme rules by primary legislation to allow trustees to share surplus with sponsoring employers. Surplus extraction would be subject to funding safeguards and a requirement to consider beneficiaries' interests.

32. Option 2 is the preferred option, as it provides trustees with a choice to modify scheme rules by resolution rather than modifying scheme rules by legislation.

Value for Money (VFM)

33. Option 0: Do nothing - let Financial Conduct Authority (FCA) use existing rule-making powers for the contract-based market only. This would create inconsistencies with the DC Trust market.

34. Option 1 (preferred): Introduce primary legislation (Bill) to provide a holistic, consistent, cross-market approach for implementing the VFM framework in full, with requisite expectations and powers delivered through legislation.

35. Option 2: Use existing powers/secondary legislation to address some elements of data disclosure, but this would fail to provide the regulator with necessary new powers to regulate.

36. Option 3: Expand existing regulation by amending VFMa requirements to cover all DC Trust schemes. This would not have full policy impact as it wouldn't cover the contract-based market nor grant sufficient new regulatory powers.

37. Option 4: Use statutory guidance in the absence of legislation. This would fail to have sufficient policy impact or provide The Pensions Regulator (TPR) with necessary powers to regulate effectively.

38. Option 1 is the preferred option as it directly addresses market failures, avoids regulatory gaps, and ensures competition focuses on value for members rather than lowest cost.

Consolidation of Small Dormant Pension Pots

39. Option 0: Do Nothing - the number of small pots would continue to rise, exacerbating inefficiencies across the pensions industry and resulting in poorer outcomes for members.

40. Option 1 (preferred): Default Consolidator(s) Model - Government will legislate for the creation of an automated consolidation solution to match deferred pots to a member's chosen or allocated consolidator pot. This would be underpinned by a central mechanism to facilitate the automatic consolidation of small pots.

41. Option 2: Pot follows Member - Government would legislate to enable members deferred small pots to be transferred into their new and active workplace pension pot.

42. Option 3: Alternative to legislation - Member Exchange - the Government could support an industry initiative to exchange pension pots between schemes on a rolling basis.

43. Option 1 is the preferred option as it delivers the policy objective at scale, while minimising member disengagement and operational risk across the market.

Scale and Asset Allocation

44. Option 0: Do nothing - consolidation would continue naturally, though concentrated among the smaller single employer trusts, meaning the evidence-supported levels of pension scheme scale may not be achieved.

45. Option 1 (preferred): Primary legislation - introduce a minimum asset under management (AUM) threshold of £25bn to be met by 2030, with time-limited exemptions if scheme scale is at least £10bn, and specific schemes out of scope of the legislation.

46. Option 2: Absence of legislation - utilising statutory guidance. This would fail to have a sufficient policy impact against the agreed objectives or provide necessary powers to regulate and enforce effectively.

47. Option 1 is the preferred option as the driving of meaningful consolidation across multi-employer DC workplace pension schemes requires primary legislation, with existing powers insufficient and statutory guidance ineffective.

Guided retirement

48. Option 0: Do nothing - this would lead to millions of individuals being unable to access a drawdown (or similar) type option and members having high fees/charges from transferring money to another scheme.

49. Option 1: Ensure provision of guidance to members - although the market is adapting and is increasingly focused on encouraging members to take-up guidance, this is not consistent and large number of schemes are not developing their decumulation offering.

50. Option 2 (preferred): Primary legislation (Bill) - this would provide the necessary powers to ensure all members are provided with a decumulation service which would include a default solution incorporating later life income, which they can be enrolled into or opt out of.

51. Option 2 is the preferred option as it ensures consistency of decumulation services and defaults across schemes.

Superfunds

52. Option 1: Do nothing (allow Superfunds to establish themselves under existing legislation with TPR overseeing)

53. Option 2: Subject Superfunds to the same regulatory framework as an insurer

54. Option 3 (preferred): Introduce a new Superfund legislative and regulatory framework.

55. Option 3 is the preferred option. Added safeguards are needed to ensure Superfunds are well managed, financially sustainable, with both members' pension benefits and the PPF (Pension Protection Fund) adequately protected. The intention is to introduce parameters within which Superfunds must operate in as well as a new Superfund authorisation and regulatory supervision regime. Superfunds that have established themselves before this legislation is in force will be required to seek authorisation from TPR in order to continue to operate.

OVERVIEW

56. The Bill enables measures equivalent to those introduced under the 2026 Act to have effect in Northern Ireland, ensuring that pension schemes, members and regulators operate within a consistent UK-wide legislative framework. This alignment is necessary to avoid regulatory divergence, support effective scheme administration, and provide legal certainty for schemes operating on a cross-jurisdictional basis.

57. The Bill confers enabling powers to replicate provisions relating to value for money assessments, consolidation within the pensions market, and requirements on schemes to support members in accessing retirement income. It also enables schemes to operate within a framework that supports effective long-term investment. The provisions are broadly technical and enabling in nature, with detailed requirements to be delivered through secondary legislation as appropriate.

COMMENTARY ON CLAUSES

Details of the clauses are set out below.

Part 1: Defined Benefit Pensions
Chapter 1: Powers to Pay Surplus to Employer
Clause 1: Power to modify scheme to allow for payment of surplus to employer

Clause 1 allows trustees of DB schemes to modify their schemes to provide for payment of surplus to the employer, both where the scheme has an existing power to pay surplus and where it does not.

Subsection (1) of Clause 1 inserts a new Article 36B in the Pensions (Northern Ireland) Order 1995.

New Article 36B(1) enables trustees to pass a resolution to modify their scheme in accordance with Article 36B(2) or (3).

New Article 36B(2) enables trustees to modify the scheme to include a power to make surplus payments to the employer, where no such power currently exists.

Where schemes contain a power to make a surplus payment to the employer, but restrictions apply to this power, new Article 36B(3) enables trustees to remove or relax those restrictions.

New Article 36B(4) stipulates that new Article 36B does not apply to a scheme if it is being wound up.

New Article 36B(5) prevents trustees from using new Article 36B to introduce or modify a power relating to the distribution of surplus assets on a winding up.

Article 228 of the Pensions (Northern Ireland) Order 2005 required schemes to have passed a resolution before 2016 to retain a power to allow surplus sharing with an employer. New Article 36B(6) clarifies that the power to modify a scheme extends to any restriction that was imposed by virtue of a resolution made under the now repealed Article 228. Schemes which have a power to share surplus but were unable to exercise that power due to not having passed a resolution under the now repealed Article 228, will not be required to pass a new resolution under new Article 36B.

New Article 36B(7) is a power to make regulations disapplying or modifying new Article 36B in certain circumstances or with respect to certain types of pension schemes. For example, new Article 36B may be modified in its application to sectionalised, multi-employer, and other atypical defined benefit schemes. Regulations made under this power will be subject to the negative procedure.

New Article 36B(8) refers readers to Article 37 of the Pensions (Northern Ireland) Order 1995, which imposes conditions that apply in relation to trustees' powers to make payments of surplus to employers.

Subsection (2) of clause 1 removes Article 228 from the Pensions (Northern Ireland) Order 2005, with the effect that trustees will no longer need to have passed a resolution before 2016 to make a surplus payment to the employer. Any resolutions previously passed under Article 228 will not lose their effect under this change (subsection (3)).

Clause 2: Restrictions on exercise of power to pay surplus

Clause 2 provides for restrictions as to how trustees of trust-based occupational pension schemes can share surplus with employers, replacing some of the existing restrictions provided for in Article 37 of the Pensions (Northern Ireland) Order 1995.

Subsection (3) of Clause 2 inserts new paragraphs (2A) to (2D) into Article 37 of the Pensions (Northern Ireland) Order 1995. The existing requirements of Article 37(3) and (4) will be replaced by these new provisions.

New Article 37(2A) enables the Department to set conditions for paying surplus in regulations. These regulations are subject to the confirmatory procedure on first use and the negative procedure thereafter.

New Article 37(2B) details four requirements that must be set out in regulations for trustees to be able to make a surplus payment to an employer. These relate to the satisfaction of the scheme actuary that certain conditions are met, the relevant funding basis (or bases) for the actuary's analysis, the provision of a certificate by the scheme actuary before a surplus payment can be made, and the notification of scheme members before a surplus payment can be made.

New Article 37(2C) covers further requirements that may be set out in regulations. These relate to other conditions that must be met, further detail regarding the certificates given by the actuary, the employer's consent to a payment, and the prohibition of surplus payments from superfunds in all circumstances.

New Article 37(2D) provides that where a scheme is subject to a freezing order (made by the Pensions Regulator under Article 19 of the Pensions (Northern Ireland) Order 2005), a surplus payment cannot be made to an employer. This replaces the provision under existing legislation at Article 37(3)(f) of the Pensions (Northern Ireland) Order 1995, which is being repealed by this section.

Subsection (4) of Clause 2 repeals the existing paragraphs (3) and (4) of Article 37 of the Pensions (Northern Ireland) Order 1995. These paragraphs will be replaced by the new paragraphs detailed above ((2A) to (2D)).

Subsection (5) of Clause 2 makes a minor amendment to Article 37(6)(a) of the Pensions (Northern Ireland) Order 1995 as a result of the insertion of Article 37(2A) and the removal of Article 37(3) and (4).

Subsection (6) of Clause 2 substitutes a replacement Article 37(8) of the Pensions (Northern Ireland) Order 1995 for the existing Article, to provide that regulations may disapply or modify Article 37 to certain schemes or certain circumstances. These regulations remain subject to the negative Assembly procedure.

Subsection (7) of Clause 2 makes a minor amendment to Article 76 of the Pensions (Northern Ireland) Order 1995 to ensure the power to disapply and modify that section is consistent with the equivalent power in Article 37(8).

Part 2: Defined Contribution Pensions
Chapter 1: Value for Money
Clause 3: Relevant schemes: value for money

Subsection (1) grants the Department the power to make regulations setting out the details of the Value for Money (VFM) framework and specifying which pension schemes and pensions arrangements fall within scope of VFM.

Subsections (2) and (3) contain details about the framework that the VFM regulations are intended to create, and the actions regulations are likely to require trustees and managers of the specified schemes and arrangements to undertake. This includes a requirement to produce, collate, publish and share certain data with prescribed persons about the performance of arrangements that the trustees or managers operate, conduct an assessment of this performance ("VFM assessments") and notify the Pensions Regulator of any relevant publications.

Subsection (4) authorises provision to be made by VFM regulations to require trustees or managers responsible for undertaking a VFM assessment to assign a VFM rating to each scheme or arrangement assessed and inform the regulator of that rating.

Subsection (5) authorises VFM regulations to set out how required calculations are to be made and when requirements under the regulations must be complied with.

Subsection (6) requires those responsible for complying with VFM regulations to have regard to any guidance issued by the Department.

Subsection (7) requires the Department to consult before making VFM regulations or issuing guidance under subsection (6).

Subsection (8) defines "responsible trustees or managers" for the purposes of the Chapter.

Subsections (10) and (11) specify that VFM regulations are subject to the confirmatory Assembly procedure, apart from regulations made relating to metric data under subsection (2)(c) which are subject to the negative Assembly procedure after the first use.

Subsection (12) defines "relevant pension scheme" within this Chapter.

Subsection (13) allows VFM regulations to provide that the VFM framework applies to hybrid schemes (that is, schemes that provide both money purchase benefits and other benefits) only to the extent that those schemes provide money purchase benefits.

Clause 4: Publication etc. of metric data

This clause makes further provision about the way in which the power in clause 3 to make VFM regulations may be exercised. In particular, it elaborates on the example given in clause 3(2)(c) and relates to the imposition in VFM regulations of requirements for trustees or managers to publish or share certain categories of information ("metric data") for the purposes of conducting VFM assessments.

Clause 5: VFM assessments
This clause makes further provision about the way in which the power in clause 3 to make VFM regulations may be exercised. In particular, it elaborates on the example given in clause 3(2)(a) and relates to the imposition in VFM regulations of requirements for trustees or managers to make and publish VFM assessments in respect of VFM periods.

Clause 6: Member satisfaction surveys
This section makes provision allowing VFM regulations to address member satisfaction surveys and the inclusion of these as part of the VFM data metrics.

Subsection (2) provides definitions for key terms included in this section.

Clause 7: VFM ratings
This clause applies where trustees or managers are required by VFM regulations to assign a VFM rating to a scheme or arrangement in respect of a VFM period.

Subsection (1) provides that VFM ratings are to be of three types: a "fully delivering" rating, a "not delivering" rating and an "intermediate" rating (which VFM regulations may subdivide into further categories). If an arrangement scores a not delivering or intermediate rating then certain consequences will follow. These consequences are set out in the case of a not delivering rating in Clause 9, and in the case of an intermediate rating, will be set out in VFM regulations, pursuant to Clause 8.

Subsection (2) relates to a "not delivering" rating. It sets out the Conditions A, B and C referred to in subsection (1)(b)(ii). A scheme or arrangement must be assigned a "not delivering" rating if the responsible trustees or managers determine that the scheme or arrangement is not delivering value for money and any of those Conditions is met.

Subsection (3) requires regulations to specify the number of grades of intermediate rating.

Subsection (4) provides that, where there is more than one grade of intermediate rating, regulations may prescribe the names of those ratings and must specify the conditions for assigning each rating.

Subsection (5) enables the Pension Regulator to authorise a scheme or arrangement to receive an intermediate rating where it would otherwise be required to receive a "not delivering" rating by virtue of Condition B in subsection (2) being met. The Pensions Regulator may only provide authorisation if the Regulator considers that prescribed conditions are met.

Subsections (6) and (7) define an "action plan", the preparation of which is intended to be a consequence of either a "not delivering" rating or some types of "intermediate" rating.

Subsection (8) provides that regulations may make further provision about the content of an action plan.

Clause 8: Consequences of an intermediate rating
Subsection (2) provides details of the various actions that VFM regulations could require in consequence of a scheme or arrangements being assigned an intermediate rating. These include preparation of a plan (an "improvement plan") to be shared with the Pensions Regulator concerning how the scheme or arrangement will improve performance with regards to providing value for money, inform employers making active contributions into the scheme or arrangement of its VFM rating and the actions it will take to improve, and close the scheme or arrangement to new employers until relevant value is demonstrated.

Subsection (3) allows VFM regulations to make provision about the content of an improvement plan and to confer additional functions on the Pensions Regulator in connection with schemes that are assigned an intermediate rating.

Subsection (4) provides definitions for key terms included in this clause.

Clause 9: Consequences of a "not delivering" rating
This clause sets out consequences for schemes or arrangements rated as "not delivering" under the VFM regime, meaning that the arrangement has been assessed as not providing value for money.

Subsection (1) provides details of the various actions that a pension scheme or arrangement rated "not delivering" must undertake. These include: prepare an action plan and provide a copy of the plan to the Pensions Regulator, inform participating employers of the VFM rating and the actions the trustees consider appropriate for the employer to take, close the scheme or arrangement to new employers and take any other steps prescribed in regulations as consequences of a "not delivering" rating.

Subsections (2), (3) and (4) provide for the Pensions Regulator to initiate a "transfer solution" process, which will permit it to require the transfer of the accrued rights and benefits of all, or a subset of, members to another scheme or arrangement.

Subsection (5) defines "employer" and "participating employer" by reference to clause 8.

Clause 10: Compliance and oversight
This clause allows VFM regulations to make provision to ensure compliance with value for money provisions.

Subsection (2) defines what is meant by value for money provisions within this clause.

Subsection (3) gives examples of the kind of provision that is likely to be included in VFM regulations for the purpose of this clause. It refers to the Pensions Regulator issuing compliance and penalty notices to trustees and managers and third parties in breach of their VFM obligations; to referrals to the First-tier Tribunal or Upper tribunal in relation to penalty notices; and to the possibility of other functions being conferred on the Pensions Regulator.

Subsections (4) and (5) make provision in connection with the amount of a penalty imposed under VFM regulations. In particular, subsection (4) allows VFM regulations to make provision for determining the amount, or maximum amount of a penalty that can be imposed; and subsection (5) provides that a penalty may not exceed £10,000 in the case of an individual, and £100,000 in any other case.

Subsection (6) enables VFM regulations to authorise the Pensions Regulator to withdraw a penalty notice in certain circumstances.

Subsections (7) through (9) provide for VFM regulations to include provision about directions notices, which will allow the Pensions Regulator to substitute a rating for the rating assigned to a scheme or arrangement by the trustees or managers.

Subsections (10) to (12) make amendments to the Pensions (Northern Ireland) Order 1995 in relation to the appointment of trustees and powers to wind up schemes.

Clause 11: Sharing of database where FCA makes corresponding rules
Subsection (1) makes clear that this clause applies where the FCA has made rules for contract-based schemes that correspond to VFM regulations.

Subsection (2) grants the Department the power to make regulations to permit the use of the electronic database mentioned at Clause 4 (2)(d) for the publication or sharing of information relating to contract-based schemes.

Subsection (3) specifies that regulations made using the power in subsection 2 are subject to negative resolution.

Clause 12: Crown application
This clause sets out how the Chapter applies to pension schemes managed by or on behalf of the Crown and persons employed by or under the Crown.

Clause 13: Interpretation of Chapter
This clause sets out how wording used within the VFM sections is to be interpreted.

Chapter 2: Consolidation of Small Dormant Pension Pots
Power to make small pots regulations
Clause 14: Small pots regulations
This clause gives the Department a power to use regulations to consolidate small dormant pension pots and defines the pension pots that will be eligible for consolidation.

Subsection (1) enables the Department to make regulations to ensure that small dormant pension pots held by auto-enrolment schemes are held by consolidator schemes. The terms "auto-enrolment scheme" and "consolidator scheme" are defined in clause 28 and clause 22(1) respectively. The word "held" acknowledges that, under the consolidation process an eligible pot may be transferred from an auto-enrolment scheme to a consolidator, but it may also remain with the automatic-enrolment scheme if that scheme is also a consolidator. Subsection (1)(b) explains that, where a consolidator

scheme has more than one arrangement, small dormant pots must also be held in a consolidator arrangement (defined in clause 22(2).

Subsection (2) defines the term 'small' for the purposes of small dormant pension pots. A pension pot is 'small' if it is valued at £1,000 or less (but not nil).

Subsection (3) outlines two conditions for a pension pot to be considered a dormant pot. The first is that the pension pot has not had contributions paid into it by, or on behalf or in respect of, the individual for whom the pot is held for such period of at least 12 months as is prescribed. The second condition is that the individual for whom the pot is held has made no active investment decision in respect of the pension pot, other than such decisions as may be prescribed.

Subsection (4) explains that, for pension pots already in existence when the small pots regulations come into operation, the prescribed period of non-contribution may begin at any time after this section comes into operation. As a result, periods of non-contribution occurring before the regulations come into operation may count towards the dormancy requirement, but periods occurring before this section comes into operation may not.

Subsection (5) confirms that the first small pots regulations will be made under the confirmatory procedure and that any subsequent small pots regulations will be subject to negative resolution unless the regulations do any of the things listed in subsection (5)(a)(ii) to (iv). Where any subsequent small pots regulations do any of those things, the confirmatory procedure still applies to the regulations.

Transfers

Clause 15: Determination of destinations for small pots

This clause sets out that, under small pots regulations, a person (or persons) will make proposals for where small dormant pots must be held as part of automatic consolidation.

Subsection (1) sets out that regulations will require a prescribed person to make a main proposal, and at least one alternative proposal, for what to do with each small dormant pot held by auto-enrolment schemes. This requirement is subject to subsection (3).

Subsection (2) defines the term "proposal". The concept of pots being "held" as described in this subsection is described further in the explanatory notes for Clause 14(1) above.

Subsection (3) refers to the situation in which a small dormant pot that contains money or assets that have (or derive from money or assets that have) already been through the consolidation process is already held by a consolidator scheme. If this consolidator scheme is also an automatic-enrolment scheme, to prevent pots that have already been consolidated from going through the process again, consolidation proposals are not required to be made in respect of these pots. The concept that money or assets have already been through the consolidation process and therefore are not intended to be subject to further consolidation proposals.

Subsection (4) provides that a person responsible for the proposals in subsection (1) may be a body corporate established by or under the regulations.

Subsection (5) provides that regulations can either prescribe one person to be responsible for making all proposals under subsection (1), or alternatively more than one person can be responsible for making proposals.

Subsection (6) provides that proposals made under subsection (1) must be notified to the relevant auto-enrolment scheme. This is unless the trustees or managers of that scheme are a prescribed person who made the proposal, in which case they would not need to be notified of their own decision.

Subsection (7) provides that a person responsible for making proposals under subsection (1) is known as a "destination proposer".

Clause 16: Transfer notices

This clause requires small pots regulations to impose requirements on the trustees or managers of an auto-enrolment scheme in relation to transfer notices. Transfer notices are communications that inform individuals of the consolidation proposals in relation to their small dormant pots. It should be noted that a proposal will not always involve a transfer to a different scheme; if the pot is already held by an auto-enrolment scheme that is also a consolidator, the proposal may be that it remains in the same scheme, either in its current arrangement or a different authorised one.

Subsection (1) confirms that regulations must place a requirement on the trustees and managers of auto-enrolment schemes to prepare transfer notices for each small dormant pot held by the schemes. These notices must then be sent to the member for whom the relevant pot is held. The requirement will not apply in relation to a scheme that, by virtue of clause 17, is an exempt scheme.

Subsection (2) states that small pots regulations must require transfer notices to comply with the provisions in subsections (3) to (5).

Subsection (3)(a) states that the transfer notice must include the default proposal; subsection (3)(b) states that the transfer notice must also include the alternative proposal(s). Subsection (3)(c) explains that the transfer notice must state that if the member does not respond to the transfer notice, the default proposal will be implemented.

Subsection (3)(d) explains that the transfer notice must invite members to respond to the transfer notice if they are not content with the default proposal and specify in their response either that they want to choose an alternative proposal, or that they wish to opt out of the process.

Subsection (4) explains that where the consolidator schemes or arrangements listed in the transfer notice require their members to be a party to a contract with the trustees or managers of the scheme, the terms of this contract must be set out or otherwise

communicated in the transfer notice. This is to alert the individual to the new contract to which they will be subject if the process goes ahead.

Subsection (5) explains that certain information, as prescribed by regulations, will be required to be included in transfer notices. This information will relate to the pension pot, the auto-enrolment scheme, and the relevant consolidator schemes and arrangements.

Clause 17: Exempt pots

This clause sets out the conditions under which a small dormant pension pot will be exempt from automatic consolidation.

Subsection (1) explains that a pot will be exempt from consolidation if conditions to be prescribed in regulations are met, and the trustees or managers of the pension scheme that holds the pot determine that it would be in the member's best interests not to transfer their pot. For example, if a pot holds a protected pension age (PPA), other legacy benefit, or is held in a scheme that provides for a particular religious or other belief, and there are no consolidator schemes or arrangements that would be compliant with this protection or belief, the trustees or managers may determine that it would not be in a member's best interests to transfer their pot out of this scheme.

Subsection (2) enables the trustees or managers of a pension scheme to determine, for example, that consolidation would not be in the best interests of a class of individuals who hold a particular religious or other belief. To simplify trustee or manager decision-making, if required to decide whether consolidation is in the best interests of a particular individual, they may determine that it is not, based on the individual's membership of that class.

Subsection (3) confirms that small pots regulations may include further provision on how a determination as to a member's best interests is to be made.

Clause 18: Transfer etc. of small dormant pension pots

This clause makes provision about the provision that must be made by small pots regulations to implement proposals contained in transfer notices.

Subsection (1) confirms that the regulations must require the trustees or managers of auto-enrolment schemes to implement the proposals contained in the transfer notices.

Subsection (2) provides that subsection (1) will not apply if the trustees or managers have received a response to the transfer notice confirming that the member wishes to opt out of the automatic consolidation process.

Subsection (3) provides that the regulations must ensure that if the trustees or managers have not received a response to the transfer notice, and the default proposal involves the transfer of the pot, the trustees or managers must transfer the pot to the proposed scheme.

Subsection (4) provides that the regulations must ensure that if the member responds to the transfer notice and selects an alternative proposal involving the transfer of the pot to a consolidator scheme, the pot must be transferred to that scheme.

Subsection (5) provides that the regulations must ensure that if the trustees or managers of the scheme do not receive a response to the transfer notice, and the default proposal involves the pot being held in a specific arrangement under a consolidator scheme, the pot is held subject to that arrangement.

Subsection (6) provides that the regulations must ensure that if the member responds to the transfer notice and selects an alternative proposal involving the pot being held by a specific arrangement in a consolidator scheme, the pot is held in that arrangement.

Subsection (7) explains that the trustees or managers of a scheme may transfer a small dormant pot, or change the arrangement under which it is held, even if this would breach a term of the scheme.

Clause 19: Effect of transfer on membership of scheme etc.
This clause outlines the consequences for members in relation to the transfer of small dormant pots under the small pots regulations, both between different pension schemes and different arrangements.

Subsection (1) explains that subsections (2) and (3) cover the consequences of transferring a pot to a different scheme.

Subsection (2) confirms that the individual will become a member of the receiving pension scheme and will acquire the rights, and become subject to the obligations, associated with membership of that scheme.

Subsection (3) explains that, if being a member of the receiving scheme requires the members to be party to a contract with the trustees or managers, a contract is deemed to have been entered into on transfer of the pot to the receiving scheme. The terms of this contract are those that were communicated in the transfer notice.

Subsection (4) explains that subsections (5) and (6) cover the consequences of transferring a pot to a different arrangement. This change of arrangement could be because of the pot being transferred to a different pension scheme, but it also could be that the pot is to remain in the same pension scheme but moved to a different arrangement.

Subsection (5) confirms that the individual will become a member of the receiving arrangement, and will acquire the rights, and become subject to the obligations, associated with membership of that arrangement.

Subsection (6) explains that, if being a member of the receiving arrangement requires the members to be party to a contract with the trustees or managers of the pension scheme in question, a contract is deemed to have been entered into on transfer of the pot to the receiving arrangement. The terms of this contract are those that were communicated in the transfer notice.

Clause 20: Timing of transfers

This clause sets out the timelines associated with the transfer of small pots from their original schemes to consolidators, and/or the changing of the arrangement to which the pot is subject.

Subsection (1) requires small pots regulations to prohibit the trustees or managers of auto-enrolment schemes from transferring a pension pot, or changing the arrangement to which it is subject, before the end of "the required notice period".

Subsection (2) defines "the required notice period" as the period of 30 days, or such longer period as may be prescribed, beginning with the day the transfer notice is sent.

Subsection (3) explains that small pots regulations must require the trustees or managers of auto-enrolment schemes to transfer pension pots, or change the arrangements to which pots are subject, before the end of the required transfer period.

Subsection (4) defines "the required transfer period" as a one-year period beginning with, whichever is later of the date on which the relevant provision of the regulations comes into operation, or the date on which the pension pot first becomes small and dormant.

Subsection (5) provides for the scenario in which the trustees or managers of an auto-enrolment scheme have not been notified of the destination of the pot in sufficient time to comply with the required transfer period. This subsection enables regulations to be made to extend the required transfer period, with the further window beginning on the date the notification of the proposals is received.

Authorisation

Clause 21: Authorisation of consolidator schemes etc. by the Pensions Regulator

This clause sets out how schemes regulated by the Pensions Regulator may be authorised as consolidators. This builds upon the Master Trust framework in the Pension Schemes Act (Northern Ireland) 2021 to include extra criteria for Master Trusts to meet before they can become consolidators.

Subsection (1) provides that small pots regulations must permit the trustees or managers of eligible Master Trust schemes to apply for authorisation of the scheme (or arrangements under the scheme).

Subsection (2) provides that the regulations must require the Pensions Regulator to authorise any applicant arrangements / schemes if the application is made in accordance with the regulations, and prescribed conditions are met.

Subsection (3) contains a power to create a framework for the Pensions Regulator to regulate authorised consolidator schemes / arrangements and ultimately withdraw an authorisation, if required.

Subsection (4) provides examples of the conditions that may be prescribed for the authorisation requirements in subsection (2)(b), and for the conditions relating to the Pensions Regulator's regulatory actions in subsection (3).

Subsection (5) provides that, where the Pensions Regulator withdraws an authorisation, small pots regulations may permit or require the Pensions Regulator to require the trustees or managers of the scheme in question to take prescribed steps with respect to "relevant" pension pots.

Subsection (6) explains that the steps that may be prescribed under subsection (5) include steps to limit the fees that may be charged in relation to relevant pension pots.

Subsection (7) explains when a pension pot is "relevant" for the purposes of subsection (5).

Subsection (8) sets out the definition of an eligible Master Trust scheme as a scheme that has been authorised by the Pensions Regulator under section 5 of the Pension Schemes Act (Northern Ireland) 2021.

Clause 22: Consolidator schemes and consolidator arrangements
This clause defines the terms "consolidator scheme" and "consolidator arrangement" for the purposes of this Chapter.

Subsection (1) defines "consolidator scheme" as either:

- An eligible Master Trust that is authorised by the Pensions Regulator under Clause 21(1)(a), or a Master Trust in respect of which any of its arrangements are authorised by the Pensions Regulator under Clause 21 (1)(b). Accordingly, a Master Trust scheme may be called a "consolidator scheme" if it has one or more of its arrangements authorised; or
- An FCA-regulated pension scheme that is included on a list published by the FCA under section 137FBC(2)(b) of the Financial Services and Markets Act 2000.

Subsection (2) defines "consolidator arrangement" as either:

- An arrangement under an eligible Master Trust where either the scheme is authorised by the Pensions Regulator under Clause 21(1)(a), or that particular arrangement is authorised by the Pensions Regulator under Clause 21(1)(b); or
- An arrangement under an FCA-regulated pension scheme where the scheme is included on a list published by the FCA under section 137FBC(2)(b) of the Financial Services and Markets Act 2000.

Supplementary
Clause 23: Further provision about contents of small pots regulations
This clause makes further provision about the content of small pots regulations.

Subsection (1) provides additional examples of the provision that may be included in small pots regulations made under the power in Clause 14.

Subsection (2) confirms that the information that provision may be made in small pots regulations which authorises or requires the processing of personal data.

Subsection (3) provides that any processing of personal data under small pots regulations will not breach any duty of confidence owed by the person processing it, nor any other restriction on the processing of personal data. It should be noted that this is subject to the general data protection override in section 183A of the Data Protection Act 2018.

Subsection (4) defines terms relied on in this section.

Subsection (5) enables small pots regulations to amend or repeal primary legislation (as may be required to implement the small pots measure).

Using the power conferred under subsection (5), subsection (6) provides two examples of the amendments to primary legislation that the small pots regulations may make. These include amending section 142 of the Pension Schemes (Northern Ireland) Act 1993 to extend the Pensions Ombudsman's functions to enable the Ombudsman to investigate and determine complaints or disputes relating to the destination proposer; and amending section 170 of that Act to allow levies to be raised against pension schemes to fund expenditure of a destination proposer, or of the Department in relation to any requirements to pay compensation to an individual who has suffered a loss as a result of the breach of small pots regulations.

Clause 24: Enforcement by the Pensions Regulator

This clause allows small pots regulations to make provision for the enforcement of failures to comply with any provision of the regulations by persons who are not regulated by the Financial Conduct Authority. Clause 25(4) explains the meaning of "FCA-regulated" for this purpose.

Subsection (2) provides examples of the provision that may be made under small pots regulations for the purpose of enforcement. These include the Pensions Regulator being able to issue:

- A compliance notice as a warning to a person that they must comply with a provision of the regulations;
- A compliance notice to a person with a view to them ensuring the compliance of a third party;
- Penalty notices where a person has still failed to comply after receiving a compliance notice or has failed to comply with a provision of the small pots regulations generally.

Subsection (2) also explains that regulations may provide for the use of the First-tier Tribunal or Upper Tribunal in determining issues arising out of any penalties issued.

Subsection (3) enables provision to be made in the regulations for determining the amount, or maximum amount, of a penalty issued by the Pensions Regulator.

Subsection (4) explains that the maximum amount of a penalty issued must not exceed £10,000 in the case of an individual, and £100,000 in any other case.

Subsection (5) sets out that penalties are recoverable by, and payable to, the Pensions Regulator, as if it were payable under a court order.

Subsection (6) states that where action is taken to recover a penalty, for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments), the penalty is to be treated as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

Subsection (7) sets out the duty on the Pensions Regulator to pay any money received through the penalty process into the Consolidated Fund.

Subsection (8) explains that references in this section to "a provision of small pots regulations" includes requirements or restrictions imposed by the Pensions Regulator under the regulations.

Clause 25: Enforcement by the FCA

This clause makes provision about enforcing failures to comply with small pots regulations by persons regulated by the Financial Conduct Authority.

Subsection (1) allows for the Department to make regulations to enable the FCA to monitor and enforce the compliance of FCA-regulated persons with any provision of small pots regulations.

Subsection (2) states that these regulations may (with or without modification) apply, or make provision corresponding to, the compliance-related provisions made by virtue of Clause 24, or any provision of the Financial Services and Markets Act 2000.

Subsection (3) confirms that any regulations made under this section may not be made without the agreement of the Treasury and are subject to the confirmatory procedure.

Subsection (4) explains that a person is "FCA-regulated", if the person is an authorised person (within the meaning of the Financial Services and Markets Act 2000) in relation to the operation of a pension scheme.

Interpretation etc

Clause 26: Power to alter definition of "small"

This clause gives the Department the power to amend the definition of "small" in Clause 14(2) in relation to small dormant pots.

Subsection (1) enables the Department by regulations to increase or decrease the amount that constitutes "small" as defined in Clause 14(2) in relation to small dormant pots.

Subsection (2) ensures that, before changing the definition of "small", the Department must consult with such persons they consider appropriate (industry representatives, for example), publish details of proposed amendments and the reasons for making them, and consider any representations made.

Subsection (3) ensures that any regulations made using this clause are subject to the confirmatory procedure.

Clause 27: Crown application
This clause sets out the application of this Chapter to pension schemes managed by or on behalf of the Crown.

Subsection (1) confirms that pension schemes managed by or on behalf of the Crown will be within the scope of the small dormant pot consolidation measure, and that this Chapter applies to such schemes as it applies to other pension schemes.

Subsection (2) confirms that references in this Chapter to persons in their capacity as trustees or managers of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

Subsection (3) confirms that the Chapter applies to employees of the Crown in the same way as it applies to employees of private persons.

Clause 28: Interpretation of Chapter
This clause defines the key terminology used across this Chapter.

Subsection (1) defines various terms used in this Chapter.

Subsection (2) explains that a pension scheme is "FCA-regulated" if the operation of the scheme meets the criteria set out in (a) and (b).

Subsection (3) defines references in this Chapter to the terms of a pension scheme. These include the terms in any legal document that make up the scheme (such as trust deeds and rules for occupational pension schemes, or the contracts in contract-based schemes), as well as the terms in any legal document to which the provider of the scheme and any individual member is a party to. The latter is to cover contractual relationships between schemes and members that are different from those applying to other members; for example, one member's contract may have different (or no) conditions for a transfer than another.

Subsection (4) confirms that in this Chapter, in the context of an FCA-regulated scheme, a reference to trustees or managers means the provider of the scheme.

Subsection (5) explains that a pension scheme is an "auto-enrolment scheme" if any individual is, or ever was, an active member of the scheme following certain arrangements made under Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008. This covers, for example, an individual who was automatically enrolled by their employer under section 3(2) of that Act.

Subsection (6) defines the term "active member" as used in subsection (5).

Clause 29: Meaning of "pension pot"
This clause defines the term "pension pot" for the purposes of this Chapter.

Subsection (1) defines "pension pot" as any assets held for the purpose of providing money purchase benefits to or in respect of a member of a pension scheme and makes provision about the interpretation of related terms.

Subsection (2) addresses the situation where a member has been automatically enrolled into the same pension scheme by two or more employers. If the member's pension assets in respect of these employments are accounted for separately by the scheme, then they are each to be regarded as separate pension pots, each with the potential to meet the small and dormant criteria and go through the automatic consolidation process separately.

Subsection (3) defines the term "employment" as used in subsection (2).

Repeal of existing powers

Clause 30: Repeal of existing powers

This makes repeals of existing legislation in consequence of this Chapter.

Chapter 3: Scale and Asset Allocation

Clause 31: Certain schemes providing money purchase benefits: scale and asset allocation

This clause makes changes to the Pensions (No. 2) Act (Northern Ireland) 2008 in respect of UK money purchase schemes.

Subsection (4) will insert a new subsection (1A) into section 20 of the Pensions (No. 2) Act (Northern Ireland) 2008 to add two new conditions that relevant Master Trusts must comply with to be qualifying schemes and accordingly be capable of being used by an employer to discharge their duties under the automatic enrolment regime.

Condition 1 is that the Master Trust must either: be approved under section 28A in respect of a main scale default arrangement; be exempted by regulations; have previously been approved under section 28E (transition pathway relief) and is to be treated as though it has approval under section 28A (approved in respect of a main scale default arrangement); or qualify for relief under the "transition pathway" or the "new entrant pathway".

Condition 2 is that the Master Trust must either be approved under section 28C in respect of the asset allocation requirement; or be exempted by regulations from the requirement for approval.

Subsection (4) also inserts a new subsection (1B) into section 20 which concerns the Department's power to exempt a relevant Master Trust (RMT) from Conditions 1 and 2 via regulations. Such exemptions are intended to cover schemes that are designed to meet the needs of persons with a protected characteristic and hybrid schemes with closed employer groups.

Subsection (4) also inserts a new subsection (1C) into section 20, which concerns the Department's power to make regulations which may permit the Regulatory Authority to temporarily treat a scheme, for a period, as meeting Condition 1 or Condition 2 – referred to as "the protected period".

This facility is expected to be used to allow the regulator to take temporary steps to minimise disruption for employers if a scheme is unlikely to reach the scale threshold

or meet the asset allocation requirements at the relevant time. Furthermore, regulations may be made under this subsection that will enable the Regulatory Authority to require trustees or managers to share a plan showing how they propose to meet or continue to meet the scale requirement under section 28A or the conditions for approval under section 28C.

Subsection (5) inserts a new subsection (4) to set out the meaning of certain key terms used in the amendments to section 20.

Subsection (6) makes a consequential amendment to section 25 of the Pensions (No. 2) Act (Northern Ireland) 2008 to remove references to section 18(b), which was repealed by the Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2019.

Subsection (8) inserts new subsections into section 26 (quality requirement: UK personal pension schemes) to add two new conditions (fifth and sixth conditions) that group personal pension schemes must comply with to be a qualifying scheme and accordingly be capable of being used by an employer to discharge their duties under the automatic enrolment regime. These new sections broadly mirror the amendments made under subsection (4) which relate to Master Trusts.

Subsection (9) inserts a new subsection (10) to set out the meaning of "main scale default arrangement" used in the amendments to section 26.

Subsection (10) makes a consequential amendment to section 28 to remove references to section 18(b), which was repealed by the Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2019.

Subsection (11) makes further consequential amendments to section 28 to provide that the relevant quality requirements applicable to the certification process outlined in that section are amended so that they take account of the new conditions.

Subsection (12) inserts a new set of sections, 28A to 28L, into the Pensions (No. 2) Act (Northern Ireland) 2008. These new provisions establish the approval framework for certain defined contribution pension schemes, setting requirements on scale and asset allocation. In particular, they give the Regulator powers to approve schemes that meet minimum scale thresholds, assess compliance with asset allocation requirements, provide transitional and new entrant relief arrangements, and deal with circumstances where asset allocation requirements may be suspended. Together, the new sections are intended to ensure that larger workplace pension schemes operate at sufficient scale and invest in line with the new regulatory framework.

New section 28A (MSDA approval: relevant Master Trusts). This section provides for the approval that a RMT must obtain under Condition 1(a) in the new section 20(1A). This approval may be given by the Regulatory Authority and will be dependent on the Master Trust meeting the "scale requirement" under paragraph 28A(1)(a) and any other conditions to be prescribed under paragraph 28A(1)(b). The conditions that are

anticipated to be prescribed under section 28A(1)(b) will include, among other matters, requirements relating to the governance and investment capabilities of a Master Trust.

Sections 28A(2) and (3) provide that:

- to meet the scale requirement, the RMT must ensure that the total value of certain assets held by the RMT, a connected Master Trust, or any connected group personal pension scheme exceeds the "minimum amount", and that these assets are managed under a common investment strategy.
- the relevant default arrangement is referred to as the "main scale default arrangement" (MSDA); section 28A(3) provides that the minimum amount of assets means £25 billion, meaning that assets held subject to the MSDA must have a value of at least £25 billion.

Section 28A(4) specifies which assets of the RMT, any connected group personal pension scheme and any connected group personal pension scheme and any connected Master Trust may be counted towards the total value of assets that is used to determine whether the scale requirement is met.

Subsection (5) requires the Department to make regulations about the nature of the connection that must exist between the RMT and other schemes in order for assets held in them to count towards the total value of assets held in the main scale default arrangement. Subsection (6) explains that regulations under subsection (5) may provide, for example, that a relevant Master Trust is connected with the RMT only if it has the same scheme funder or scheme strategist as the RMT, or, that a group personal pension scheme is connected with the RMT only if its provider is also the scheme funder or scheme strategist of the RMT.

Section 28A(7) and (9) permit the Department to make regulations about how the total value of the assets is to be determined, and whether any assets are to be excluded from the calculation of this total value.

Section 28A(8) permits the Department to make regulations about how RMTs must evidence they meet the scale requirement, and the meaning of a "common investment strategy".

Section 28A(10) provides that the Department may make regulations about the time limits and procedures relevant to approvals under section 28A(1) and matters relevant to withdrawing approvals.

Section 28A(12) provides that before making regulations under section 28A, the Department must consult with such persons they consider appropriate.

Section 28A(13) defines "main scale default arrangement" for the purposes of the section.

New section 28B (MSDA approval: group personal pension scheme). This new section provides for the approval that a group personal pension scheme (GPP) must obtain

under the fifth condition in the new section 26(7A). This approval may be given by the Regulatory Authority and will be dependent on the GPP meeting the "scale requirement" under section 28B(1)(a) and any other conditions to be prescribed under section 28B(1)(b). Other significant parts of section 28B include:

- to meet the scale requirement, the GPP must ensure that the total value of certain assets held by the GPP, other connected GPPs or any connected qualifying relevant Master Trust exceeds "the minimum amount", and that these assets are managed under a common investment strategy.

Section 28B(3) provides that the minimum amount of assets means £25 billion, meaning that assets held subject to the MSDA must have a value of at least £25 billion Section 28B(3) provides that "the minimum amount" means £25 billion. Regulations will set out how a GPP must evidence the scale requirement; define the meaning of "common investment strategy" and determine what assets that can count to meet the scale requirement.

The other conditions that are anticipated to be prescribed under section 28B(1)(b) will include, among other matters, requirements relating to the governance and investment capabilities of a GPP.

Section 28B(4) specifies which assets of the GPP, any connected group personal pension scheme and any connected qualifying Master Trust may be counted towards the total value of assets that is used to determine whether the scale requirement is met.

Section 28B(5) and (7) permits the Department to make regulations about how the total value of assets is to be determined, and whether any assets are to be excluded from the calculation of this total value.

Section 28B(6) permits the Department to make regulations about how a relevant GPP must evidence they meet the scale requirement, and the meaning of a "common investment strategy".

Section 28B(8) requires the Department to make regulations about the nature of the connection that must exist between the GPP and other schemes in order to count assets held in them towards the total value of assets held in the main scale default arrangement. Subsection (9) explains that regulations under this subsection may provide, for example, that a GPP is connected with the GPP only if it has the same provider as the GPP, or, that a relevant Master Trust is connected with the GPP only if its scheme funder or scheme strategist is also the provider of the GPP.

Section 28B(10) provides that the Department may make regulations about the time limits and procedures relevant to approvals under section 28B(1) and matters relevant to withdrawing approvals.

Section 28B(12) provides that before making regulations under section 28B, the Department must consult with such persons as it considers appropriate.

Section 28B(13) defines "main scale default arrangement" for the purposes of the section.

New section 28C (Approvals in respect of asset allocation). This new section provides for the approval relating to the asset allocation requirement that RMTs, and GPPs must obtain under Condition 2(a) in the new section 20(1A) and the sixth condition in section 26(7B). Section 28C(1) provides that the Regulatory Authority may approve a RMT or GPP only where it determines that at least the prescribed percentage (by value) of assets held in main default funds in the scheme are qualifying assets.

Section 28C(3) provides that "'qualifying asset" means an asset of a prescribed description that is held in a main default fund of a RMT or GPP.

Section 28C(4) provides that a description of asset may be prescribed only if it represents a direct or indirect holding in one of six specified asset classes: private equity, venture capital, private credit, interests in land, infrastructure, and unlisted securities (which are defined as equity securities not listed on a recognised stock exchange within the meaning of the Income Tax Acts, including securities admitted to trading that are not listed on such an exchange). The definition of "the Income Tax Acts" for this purpose is the definition contained in Schedule 1 to the Interpretation Act 1978 (as applied by section 24(3) of that Act).

Section 28C(5) provides that regulations under subsection (3) must secure that a description of asset is prescribed in respect of each of these six asset classes.

Section 28C(6) provides that descriptions of qualifying assets prescribed under subsection (3) may relate to whether an asset is located in the United Kingdom or to the presence or absence of other prescribed factors linking an asset to economic activity in the United Kingdom.

Section 28C(7) provides that regulations under section 28C may not have the effect of requiring more than 10% (by value) of all assets held in main default funds to be qualifying assets, or more than 5% (by value) of such assets to be of a UK-specific description. Section 28C(8) defines "UK-specific description" for these purposes.

Section 28C(9) defines "main default funds" for the purpose of section 28C. Assets of RMT or GPP are held in main default funds if the jobholders by, or in respect of whom contributions have been made, have not (or predominantly have not) expressed a choice as to where the contributions are allocated, and the arrangements under which the assets are held meet any other conditions that may be prescribed.

Section 28C(10) provides that the Department may make regulations about how RMTs and GPPs the meeting of the asset allocation requirement is to be evidenced and requiring the trustees or managers of RMTs or the providers of GPPs to have regard to any guidance issued by the Department about the effect of regulations under section 28C.

Section 28C(11) provides that the Department may make regulations that address various aspects of the application process under section 28C(1), and matters relating to the withdrawal of approval.

Section 28C(13) provides that the power to make regulations under section 28C(1) may only be exercised once.

Section 28C(14) provides that the Department may not make regulations under section 28C(1) before 1 January 2028.

Subsection 28C(15) provides that provision under section 28C overrides any conflicting provision of a trust deed or rules of the scheme in question.

New section 28D (Information) which provides that regulations may be made about information that that the trustees or managers of a RMT or provider of a GPP must give to the Regulatory Authority about the allocation of assets of the RMT or GPP.

New section 28E (Transition pathway relief). This new section provides for the relief that RMTs may qualify for under Condition 1(d) of new section 20(1A) and GPPs may qualify for under new section 26(7C)(b). If the Regulatory Authority gives its approval to a scheme under section 28E(1) (for Master Trusts) or (3) (for group personal pension schemes), that scheme will be considered to have complied with the relevant condition.

This relief will permit schemes that have not met the scale threshold set out in section 28A or 28B by 2030 to continue to be a qualifying scheme for the purposes of the automatic enrolment framework if they meet certain criteria, including having a minimum total value of assets of £10bn, as specified in section 28E(2) and (4). Schemes must also have a credible plan for meeting the scale requirement, so it reaches "the minimum amount" in section 28A(3) or 28B(3) by 2035 (or five years from commencement of scale requirements), as well as meeting appropriate governance and investment capability requirements to be determined in regulations.

Subsection (5) of section 28E provides that the Department may make regulations about steps that the trustees or managers of schemes that are approved under section 28E must take (including the production of plans for increasing scale); subsection (6) requires regulations to make provision about the criteria by which the Regulatory Authority is making determinations under subsections (1) and (3) of that section; and subsection (7) gives the Department a power by regulations to make provision about matters relevant to the approval process and appeals.

Section 28E(8) provides that the Department must consult before making any regulations under section 28E.

New section 28F (New entrant pathway relief). This new section provides for the relief that RMTs may qualify for under Condition 1(e) of new section 20(1A) and GPPs may qualify for under new section 26(7C)(c). If the Regulatory Authority gives its approval to a scheme under section 28F, that scheme will be considered to have complied with the relevant condition.

The relief will only be approved where the scheme does not yet have any members; it has a strong potential to grow (to meet the scale requirement under section 28A or 28B); it has an "innovative product design"; and complies with any further conditions to be prescribed in regulations.

Subsection (3) of section 28F grants the Department the power to make regulations about the application process and rights of appeal. Subsection (4) of section 28F permits the Department to make regulations about the meaning of "strong potential to grow" and "innovative product design" (including how a scheme can demonstrate both things). Subsection (5) of section 28F requires the Department to consult before making regulations.

New section 28G (Suspension of asset allocation requirement: savers' interest test) the Department must make regulations which have effect whenever regulations made under section 28C(1) or (2) have effect, authorising the regulator, on application by a RMT or GPP, to determine that the scheme is to be treated for a specified period as if it were exempted from the requirement for approval under section 28C.

Section 28G(3) sets out what may or must be included in the regulations.

New section 28H (Risk notices). This new section will allow TPR to issue risk notices to the trustees or managers of a RMT, if TPR considers that there is a concern in relation to the RMT and that the scheme will or is likely to cease to meet the scale or asset allocation requirements. The risk notice will require the trustees or managers of the RMT to produce a resolution plan to address that concern.

Risk notices are already used by TPR to require trustees to deliver certain corrective actions under other supervisory frameworks. The FCA operates an equivalent system of 'warning notices' which they can apply to scale requirements with regard to group personal pension schemes.

New section 28I (Penalties). This new section allows the Department to make regulations that provide for financial penalties to be imposed where a relevant Master Trust or group personal pension scheme fails to meet either the scale or asset allocation conditions (as set out in subsection 20(1A) by reason of not being approved under section 28A or 28C), and nevertheless continues to accept contributions from an employer in relation to a jobholder on the basis that it is an automatic enrolment scheme in relation to that jobholder. The regulations must satisfy the requirements set out in subsection (3) of section 28I relating to the maximum amount of penalty that may be imposed and a right of appeal against the imposition of a penalty.

New section 28J (Enforcement by the Financial Conduct Authority). This new section allows the Department, with the agreement of the Treasury, to make regulations that provide for monitoring and enforcement functions to be conferred on the FCA in relation to the compliance of FCA-regulated persons with the provisions of, or under Chapter 1 of, the Pensions (No. 2) Act (Northern Ireland) 2008, including for the new provisions set out in Clause 31.

New section 28K (Regulations about quality requirements) requires the Department to have regard to the importance of innovation, competition, improving members' outcomes, achieving appropriate scale and effective governance, when making regulations under section 20(1A), 26(7A), 28B, 28E or 28F.

Subsection (13) concerns the meaning of terms used in Clause 31.

Subsection (14) provides that specified regulations made under Clause 31 are subject to the confirmatory Assembly procedure.

Subsection (15) provides that the transition pathway will expire five years after it comes into operation.

Subsections (16) to (19) provide for the repeal, at the end of 2035, of the asset allocation provisions inserted by the Bill. Subsection (16) lists the provisions to be repealed, which include section 28C (approvals in respect of asset allocation), section 28G (savers' interest test), and the related risk notice, penalty, and review provisions.

Subsection (17) defines the "relevant asset allocation provisions" of the Pensions (No. 2) Act (Northern Ireland) 2008 that are to be repealed.

Subsection (18) makes consequential amendments arising from the repeals.

Subsection (19) confers a power on the Department to make transitional or saving provision in connection with any repeal or amendment under subsections (16) or (18).

Subsection (20) confers a power on the Department to make amendments to Clause 31, Clause 32 or the Schedule in consequence of a repeal under section 97(6) (repeal where asset allocation requirement uncommenced).

Subsection (21) provides that regulations under subsections (19) or (20) are subject to negative resolution.

Clause 32: Amendments related to section 31

Subsection (2) inserts two new authorisation criteria into section 5 (decision on application) of the Pension Schemes Act (Northern Ireland) 2021. The first of these requires that a Master Trust will need to satisfy the Pensions Regulator that it has sufficient investment capability. The second criterion is that a Master Trust, where the main administration is in the UK, meets Condition 1 of section 20(1A) of the Pensions (No. 2) Act (Northern Ireland) 2008.

Subsection (3) inserts section 12A (Investment capability) into the Pension Schemes Act (Northern Ireland) 2021. This new section sets out the matters that the Pensions Regulator must be satisfied of in deciding if it is satisfied that a Master Trust has sufficient investment capability. These matters are listed in subsection (2) of the new section. Furthermore, subsection (3) of the new section permits the Department to make regulations about the meaning of the terms used in subsection (2) of this section and specifying further things that the Pensions Regulator must be satisfied of when deciding whether it is satisfied a scheme has sufficient investment capability. Subsection (5)

determines that first regulations made under this section are subject to the confirmatory resolution procedure, whilst subsequent regulations under this section are subject to the negative resolution procedure.

Subsection (3) also inserts section 12B (Scale requirement) into the Pension Schemes Act (Northern Ireland) 2021. This new section permits the Department to make regulations about how the Pensions Regulator is to decide whether it is satisfied that a scheme meets the scale requirement and specify matters which it must take into account when making its assessment. Subsection (3) determines that first regulations made under this section are subject to the confirmatory resolution procedure, whilst subsequent regulations under this section are subject to the negative resolution procedure.

Chapter 4: Default Arrangements

Clause 33: Regulations restricting creation of new non-scale default arrangements

This Chapter contains provision that may be exercised or enforced by the FCA or TPR, depending on the type of pension arrangement concerned. The FCA regulates personal and contract-based pension products, while TPR regulates Occupational personal schemes.

This clause grants the Department powers to make regulations to restrict a provider's ability to begin operating a non-scale default arrangement. The regulations are likely to require providers of a pension scheme to obtain the approval of "the Regulatory Authority" (either the FCA or the Pensions Regulator) as a condition of operating a non-scale default arrangement.

Subsection (2) gives examples of what regulations under subsection (1) are likely to contain. It provides that regulations may set out the criteria the FCA or TPR must apply in determining whether to approve a non-scale default arrangement and any discretion that can be applied, as well as conditions for approval and ongoing requirements that providers must meet. This subsection also sets out that if assets are held in breach of the regulations, that regulations may require the assets to be held subject to different arrangements. It also refers to the possibility that the regulators may impose civil penalties and for a reference to be made to the First-tier Tribunal or Upper Tribunal.

Subsection (3) provides that regulations made under this section that contain provisions that apply to FCA-regulated schemes, may not be made without agreement of the Treasury.

Subsection (4) sets out the regulations in subsection (2) are subject to the confirmatory procedure.

Clause 34: Regulations about consolidation of non-scale default arrangements

This clause grants the Department the power to make regulations to require, in certain circumstances, non-scale default arrangements to be consolidated into an approved main scale default arrangement.

Subsection (2) gives examples of the likely content of regulations made under this clause. It provides that regulations may require arrangements to be consolidated unless an exemption specified in the regulations applies; require a provider to prepare a plan for consolidation for regulators; and confer functions on the regulators, including functions relating to the imposition of civil penalties. Regulations in this subsection may provide for a reference to be made to the First-tier Tribunal or Upper Tribunal in respect of decisions made under the regulations.

Subsection (3) provides that regulations made under this section that contain provisions that apply to FCA-regulated schemes, may not be made without agreement of the Treasury.

Subsection (4) sets out the regulations in subsection (2) are subject to the confirmatory procedure.

Clause 35: Regulations about default arrangements
This clause requires the Department when making regulations under Clause 33 (creation of new non-scale default arrangements) or Clause 34 (consolidation of non-scale default arrangements) to have regard to the importance of the matters listed in paragraphs (a) to (d).

Clause 36: Crown application
This clause sets out how the Chapter applies to pension schemes managed by or on behalf of the Crown and persons employed by or under the Crown.

Clause 37: Interpretation of Chapter
This clause defines the key terminology used across this Chapter.

Chapter 5: Guided Retirement
Clause 38: Default pension benefit solutions
When pension scheme members seek to access their defined contribution pension pots, they face complex decisions about how they should access their pension benefits to meet their financial needs for perhaps two decades or more in retirement. This is because there are multiple ways of taking pension payments, and individuals also need to assess how much they need to withdraw each year without over or under spending, as well as considering the tax implications of making withdrawals.

Clause 38 requires the trustees or managers of relevant pension schemes to develop ways for relevant scheme members with money purchase benefits (i.e. defined contribution benefits) to receive their pension without the member having to make complex choices about how they want to receive those benefits (referred to as the "default pension benefit solutions"). The default pension benefit solutions are intended to help individuals who would otherwise have to engage with the system themselves in order to put in place a retirement income plan, with a method of payment that means the recipient will receive an income for the remainder of their life. In this context, relevant pension schemes are occupational pension schemes which provide money purchase benefits and meet certain other conditions.

Subsection (1) requires the trustees or managers of relevant schemes to design one or more default pension benefit solutions, with the intention that the trustees or managers use their expertise to remove the need for members to consider how their pension is invested, or how long they expect to live. The default pension benefit solution(s) must be reviewed in accordance with the regulations.

Subsection (2) defines the term "pension benefit solution".

Subsection (3) defines the term "default pension benefit solution" and provides that they must be designed to be appropriate for the generality of scheme members, or for subsets of those members, and designed to provide a regular income for the whole of retirement, (either as part of, or separately to, other benefits). The subsection explains that the default pension benefit solution is the pension benefit solution designated by the trustees or manager as the solution under which members or a subset of these will receive their pension payments unless they choose an alternative. It is in this sense that it is a "default". The subsection also provides a power to set further conditions in regulations that a pension benefit solution must meet to satisfy the definition.

Subsection (4) provides details of the factors that the trustees or managers need to take into consideration when determining what default pension benefit solutions to make available to their members. Trustees or managers will need to consider the needs and interests of the generality of members for their later life income and consider the possibility that members may have received a lump sum payment before entering a default arrangement. The subsection also provides for further factors to be prescribed in regulations.

Subsection (5) provides a power to prescribe how trustees or managers assess the needs and interests of their scheme's members.

Subsection (6) enables regulations to remove the requirement for default pension benefit solutions to have to be designed to provide a regular income in retirement in relation to certain categories of pension scheme members where this might be unsuitable, such as in the case of small pots. This subsection also provides for regulations to define "designed to provide a regular income" and "retirement".

Subsection (7) provides definitions of certain relevant terms.

Subsection (8) indicates that regulations made in this section are subject to the confirmatory Assembly procedure, except those made under subsections (1)(b) or (6)(a).

Clause 39: Transferable members

Clause 39 makes provision about two cases where the trustees or mangers of relevant schemes will not be required to comply with section 38(1) in relation to eligible members of the scheme. Where the requirement in section 38(1) does not apply, the trustees or managers will, instead, be required to take certain steps with a view to transferring those members to a different scheme.

Members who are affected by this provision are referred to in the clause as "transferrable members".

The first case is where the trustees or managers determine that it is not reasonably practicable for them to design and make available default pensions benefit solutions for the transferrable members.

The second case is where the trustees or managers have determined that alternative arrangements provided by another scheme would deliver better outcomes for the transferrable members.

The steps that must be taken by the trustees or manager are set out in subsection (5). The transferring member will receive what is termed a "qualifying pension benefit solution" under the receiving scheme designed on the same principles as a default pension benefit solution.

Subsections (4) and (5) set out that where a scheme does not need to provide a default pension benefit solution, they must instead identify another scheme which will be able to and agrees to receive a transfer and enter into an arrangement ("a transfer arrangement") with that scheme with a view to effecting a transfer of the transferrable members so as to make a qualifying pension benefit solution available to them. Regulations will prescribe the times at, or circumstances in, which transfer arrangements must be entered into. There is also a power to prescribe additional steps that must be taken by the trustees or managers (see subsection (5)(c).

Subsection (6) specifies that when trustees or managers are looking to identify a scheme to move transferable members to, they must ensure that they take into account the same factors as if they were providing default pension benefit solutions within the scheme (i.e. the factors set out in Clause 38(4)). This includes taking into account the needs and interests of scheme members.

Subsection (7) indicates that any regulations made under Clause 38(5) also applies for the purposes of the duty in subsection (6) of this clause.

Subsection (8) requires trustees or managers to keep the suitability of any qualifying pension benefit solution under review, and provides for regulations to set out the circumstances, times, or intervals in which those reviews must take place.

Subsection (9) defines the term "qualifying pension benefit solution" for the purposes of this Chapter.

Subsection (10) clarifies that the Chapter does not authorise a transfer in respect of a person's accrued rights under a pension scheme without that person's consent.

Subsection (11) defines "qualifying scheme" for the purposes of this section. This definition applies to occupational pension schemes and personal pensions schemes that are registered schemes (see clause 46). It is also possible that additional conditions prescribed by regulations will need to be met for schemes to fall within the definition.

Subsection (12) applies if a transferrable member accepts in writing a proposal for the member's accrued pension rights to be transferred to another scheme. It requires the trustees or managers of the scheme that the member is transferring from to communicate the proposal to the received scheme; and provides that the proposal has the effect of requiring the receiving scheme to enrol the transferring member as a member of the receiving scheme and to provide rights to the member under that scheme using the cash equivalent of the members accrued right received by the scheme in connection with the transfer.

Subsection (13) enables regulations to prescribe how trustees or managers should make determinations under subsections (2) and (3).

Subsection (14) enables regulations to be made to require specified schemes to accept transfers from pension schemes with transferable members for the purposes of providing members with a qualifying pension benefit solution where the principal scheme has been unable to find a suitable receiving scheme to accept the members.

Subsection (15) specifies that the only types of pension scheme which could be required by regulations to accept transfers are Master Trust schemes and default small pots consolidator schemes (see Chapter 2 of this Part).

Subsection (16) provides a regulation-making power to prohibit or limit charging of fees imposed in respect of transfers made under this section.

Subsection (17) specifies that regulations may determine the way cash equivalents are calculated and verified.

Subsection (18) specifies that regulations made under this section are subject to the confirmatory procedure, except regulations made under subsections (8), (16), or (17) (which are subject to negative resolution).

Clause 40: Provision and gathering of information

Clause 40 sets out requirements (and powers to make further requirements in regulations) to provide communications to members which will inform them about the pension benefit solutions available to them. This clause looks to ensure members are provided with information about their options to support them making informed decisions about how to take their pension payments.

Subsections (1) and (2) set out requirements for trustees or managers of occupational pension schemes to communicate descriptions of the default/qualifying pension benefit solution to pension scheme members and explanations of the circumstances of a person for whom they would be suitable.

Subsection (3) enables regulations to be made which determine how a pension benefit solution is to be presented to members when they want to start receiving their benefits. This power allows the Department to ensure that the default/qualifying pension benefit solution is presented to members as the default method for members to take their pension benefits.

Subsection (4) makes provision for members to be informed about the basic features of their pension, including that it has both an accumulation (paying in) and decumulation (paying out) phase, and that the default/qualifying pension solutions are designed to provide a regular income during retirement.

Subsection (5) provides a collection of powers that allows the Department to require the trustees or managers of schemes to send communications to ensure that members are aware of the options available to them when they reach retirement. For instance, the subsection enables regulations to be made which could require pension scheme members to be provided with information about other ways they could receive their pension benefits besides the default pension benefit solution and any general information to enable members to decide how to receive their pension benefits. This might, for instance, include general information about combining pension pots.

Subsection (6) specifies that communications sent by schemes must be in clear and plain language.

Subsection (7) permits trustees or managers to request information from members to enable them to design, review, or (in the case of transferable members) identify the pension benefit solutions, and (in cases where there is more than one default pension solution) as well as to determine what pension benefit solution may be appropriate for the member.

Subsection (8) allows for regulations to require trustees or managers to request information for the purposes set out in subsection (7).

Subsection (9) enables regulations to set out further requirements with respect to requesting information (under subsection (7)) from pension scheme members.

Subsection (10) enables regulations to set requirements for the format of any communications sent to members under the provisions in this clause.

Subsection (11) requires the Department to consult before introducing regulations under this clause.

Subsection (12) specifies that regulations made under this clause are subject to negative resolution.

Clause 41: Information etc. in connection with selection of benefit solution

Clause 41 enables regulations to be made which could require trustees or managers of relevant occupational pension schemes to provide (or make available) information to pension scheme members for the purpose of helping them decide how to take their pension benefits.

Subsection (1) provides a power for regulations to be made, which could require trustees or managers to provide information at specified times to assist members in deciding how to take their pension benefits. The subsection also specifies that any information provided should be in clear and plain language.

Subsection (2) specifies that regulations could require information provided by virtue of subsection (1) to be based on the member's particular circumstances. This would require any information provided to be tailored to the member's needs as understood by the scheme.

Subsection (3) provides a regulation-making power which could require trustees or managers to monitor rates of decumulation and notify members if they consider that it should be reviewed (such as where funds are being drawn too quickly).

Subsection (4) specifies that regulations under this clause are subject to the confirmatory procedure.

Clause 42: Pension benefits strategy

Clause 42 provides that the trustees or managers of a relevant scheme must design a "pension benefits strategy" to ensure that certain objectives are met. This strategy will, among other things, explain the rationale for the pension benefit solution(s) that the trustees or managers decide to provide its membership. Trustees and managers will also be required to review the strategy from time to time and revise it if necessary.

Subsection (1) sets out the requirement to determine the pension benefits strategy. The strategy is to detail how the scheme will understand the needs of its membership and design or identify one or more pension benefit solutions that take these requirements into account. The strategy will also need to include information about how the scheme will communicate effectively with members.

Subsection (2) requires trustees or managers to publish the strategy and to share this on request to the Pensions Regulator and any member of the scheme.

Subsection (3) grants a power to prescribe in regulations certain matters that must be taken into consideration when determining the pensions benefit strategy and that trustees or managers must consider guidance issued by the Pensions Regulator. This subsection also enables regulations to specify the level of details required in the pension benefits strategy, when the strategy must have been developed by, and how often it must be reviewed.

Subsection (4) enables regulations to require trustees or managers to publish prescribed information or evidence to demonstrate compliance with any obligation imposed under this Chapter.

Subsection (5) specifies that regulations made under this clause are subject to negative resolution, except regulations made under subsection (3)(a), which are subject to the confirmatory procedure.

Clause 43: Enforcement and compliance

Clause 43 provides regulation-making powers which could provide for the Pensions Regulator to issue enforcement notices for non-compliance with the provisions of this Chapter. It also provides for the Pensions Regulator to be able to appoint new trustees

to a non-compliant scheme by making amendments to the Pensions (Northern Ireland) Order 1995.

Subsection (1) provides a regulation-making power which may be used to ensure compliance with any of the provisions of this Chapter (including requirements which may be made under secondary legislation).

Subsection (2) specifies that the regulations may include provisions for the Pensions Regulator to issue compliance notices, third party compliance notices, and penalty notices. This subsection also allows for the regulations to specify the route of appeal for penalty notices, and for regulations to confer other functions on the Pensions Regulator.

Subsection (3) enables provisions to be made in the regulations for determining the amount, or maximum amount, of a penalty issued by the Pensions Regulator.

Subsection (4) sets out that penalty notices must not exceed £10,000 in the case of an individual or £100,000 in any other case (such as a corporate trustee).

Subsection (5) sets out that penalties are recoverable by, and payable to, the Pensions Regulator.

Subsection (6) states that where action is taken to recover a penalty, for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments), the penalty is to be treated as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

Subsection (7) specifies that any penalties recovered by the Pensions Regulator must be paid into the Consolidated Fund.

Subsection (8) amends the Pensions (Northern Ireland) Order 1995 to enable the Pensions Regulator to appoint a new trustee to a non-compliant scheme.

Subsection (9) specifies that the confirmatory procedure applies to regulations made under this clause.

Clause 44: Crown application
Clause 44 provides that the requirements in this Chapter apply to a pension scheme managed by or on behalf of the Crown as they apply to other schemes.

Clause 45: Interpretation of Chapter
Clause 45 provides definitions for key terms included in the Chapter.

Part 3: Superfunds
Chapter 1: Introductory
Clause 46: Overview
This clause provides a general overview of Part 3 of this Bill, which provides a regulatory framework for superfunds, and this overview includes a brief introduction to the six Chapters of Part 3.

Clause 47: Key concepts

Clause 47 defines the key concepts used in the regulatory framework for superfunds.

Subsection (1) defines a "superfund scheme" as a trust-based occupational pension scheme that meets the stated conditions in paragraphs (a) to (c). These conditions are what differentiate superfund schemes from other trust-based occupational pension schemes.

Subsection (1)(a) requires that the scheme has received a transfer of defined-benefit liabilities from another trust-based occupational pension scheme. The superfund regime applies only to transfers of liabilities from trust-based occupational pension schemes. Accordingly, a superfund scheme will not be able to accept a transfer from either a public service pension scheme or a personal pension scheme.

Subsection (1)(b) requires the scheme to be supported by a capital buffer, as defined in subsection (2).

Subsection (1)(c) further provides that the scheme is not to be supported by a substantive employer covenant, as defined in subsection (4). Subsection (1) also includes in the definition of a superfund scheme a trust-based occupational pension scheme that is managed or administered with a view to becoming a superfund scheme.

Subsection (2) clarifies that a trust-based occupational pension scheme is "supported by a capital buffer" if a contract or other legally binding arrangement has been entered into under which assets that are not assets of the scheme must be held by a person in connection with the scheme and, in certain circumstances, made available to the trustees to satisfy the scheme's liabilities. This subsection allows for a range of ownership options to be recognised. For example, a capital buffer supporting a superfund could be structured as a company, underpinned by contractual arrangements, or with buffer assets held within a trust.

Subsection (3) defines the term "capital buffer" in relation to a trust-based occupational pension scheme as assets that are subject to the contractual or other arrangements set out in subsection (2).

Subsection (4) sets out that a trust-based occupational pension scheme is "not supported by a substantive employer covenant" if there is no realistic prospect of the employer being able to provide material financial support to satisfy the scheme's liabilities, ignoring the capital buffer and financial support which it may obtain from a third party but to which it is not entitled.

Subsection (5) defines the term "superfund" in the context of a superfund scheme as including at subsection (5)(a) any capital buffer and subsection (5)(b) any arrangements for the management and administration of the scheme and any capital buffer.

Subsection (6) defines a "superfund transfer" as the transfer of defined-benefit liabilities from a trust-based occupational pension scheme to a superfund scheme, which can include a transfer from one superfund scheme to another.

Clause 48: Schemes divided into sections

Clause 48 applies where trust-based occupational pension schemes are divided into sections. Subsection (2) requires that when a scheme is sectionalised, each section is treated as a separate scheme in terms of members, scheme assets and liabilities and, in relation to a superfund scheme, the capital buffer. This means that different sections are treated independently, so that if one section fails, that failure is contained and does not affect other sections.

Subsection (3) requires that any change to the number of sections of a superfund scheme be treated as a superfund transfer.

Subsection (4) defines a "section" of a trust-based occupational pension scheme, which includes a superfund scheme, as arrangements (a) which apply under the scheme rules or the capital buffer arrangement, and (b) under which the scheme assets and buffer may only be used to satisfy scheme liabilities of particular scheme members.

Chapter 2: Authorisation of Superfunds

Clause 49: Prohibition of unauthorised superfund activity

Clause 49 prohibits unauthorised superfund activities. Subsection (1) prohibits a person from promoting a scheme for the purpose of receiving a superfund transfer or entering into arrangements for receiving a superfund transfer before receiving superfund authorisation from the Pensions Regulator. Breach of subsection (1) will be an offence.

Subsection (2) provides an exemption from subsection (1) where it is made clear to the involved parties that the scheme is not yet part of an authorised superfund.

Subsections (4) and (5) set out the penalties that may apply to a person who breaches subsection (1). Under subsection (5) such a person may be subject to a penalty under Article 83A of the Pensions (Northern Ireland) Order 2005 unless that person has been convicted of an offence, or is being prosecuted, for the same act.

Clause 50: Authorisation of superfunds

Clause 50 allows the Pensions Regulator to authorise a superfund. Subsection (1) requires that for a superfund to be authorised the Regulator must be satisfied the superfund's organisation, staff, plans and procedures indicate that the superfund is likely to meet the ongoing requirements for superfunds as specified in Chapters 4 and 5.

Subsection (2) specifies that an application must be made jointly by (a) the superfund scheme trustees and (b) a UK body corporate that is involved in managing or administering the superfund scheme.

Subsection (3) allows the Pensions Regulator to specify the manner and form of the superfund application. This enables the Regulator to set out the application process in an appropriate manner, subject to the requirements of the legislation.

Subsection (4) gives the Department a power to make regulations about applications. The regulations are subject to negative resolution (subsection (7). The power includes

power to make provision about (a) the documents and information required in an application, and (b) the fee for applications.

Subsection (5) requires the Regulator to publish a list of authorised superfunds. This is to ensure trustees can easily assess whether a superfund is legitimate and a good destination for prospective scheme transfers.

Subsection (6) allows the Regulator to withdraw authorisation where no transfers have occurred if the Regulator is no longer satisfied as required under subsection (1).

Clause 51: Timings of decisions about authorisation
Subsection (1) sets out that where an application is made for authorisation, the Pensions Regulator must make a decision and notify the applicants regarding authorisation within 6 months of receiving the application.

Subsection (2) allows the Regulator to extend the decision period up to, but no longer than, 9 months. Where an application received by the Regulator does not initially meet the requirements for authorisation, subsection (3) allows the day on which the failure is remedied to be treated as the day of receipt of the application, from which the 6-month decision period begins.

Chapter 3: Approval of Superfund Transfers
Clause 52: Prohibition of unapproved superfund transfers
Under subsection (1), transfers to a superfund can only be made where approved under this Chapter. If a person breaches subsection (1), an offence is committed which can, if tried on indictment, lead to a fine, imprisonment of up to 2 years or both. The Pensions Regulator may, as an alternative, choose to apply a penalty under Article 83A of the Pensions (Northern Ireland) Order 2005 (financial penalties) where a person breaches subsection (1).

Clause 53: Approval of superfund transfers
Clause 53 sets out the criteria for approval by the Pensions Regulator of a superfund transfer. Subsection (1) allows the Regulator to approve a superfund transfer if the receiving superfund is authorised, the ceding scheme (from which liabilities are transferred) does not have any active members (active member is defined by Article 121 of the Pensions (Northern Ireland) 1995 as a person who is in pensionable service under the scheme) and the Regulator is satisfied that each of the onboarding conditions (as set out in subsection (2)) is met.

The onboarding conditions are set out in subsection (2)(a) to (e) and require an assessment by the trustees, , that an insurance buyout cannot be arranged at the time of application; that the superfund transfer will increase the likelihood that transferred liabilities will be met in full in the future; that it is reasonable to expect that immediately following the superfund transfer the capital adequacy threshold will be met, meaning that the value of the assets of the scheme and the capital buffer is such that there is a very high likelihood of the scheme liabilities being satisfied in full; that it is reasonable to expect that the technical provisions threshold will be met at the end of a period

specified in regulations made by the Department using the negative procedure (see subsection (9)); and that the receiving superfund, after the transfer takes place, is likely to be able to comply with the ongoing requirements of superfunds as set out in Chapters 4 and 5.

Subsection (3)(a), (b) and (c) sets out that the approval of a superfund transfer by the Regulator may be subject to specific terms and time periods, and to the onboarding conditions being met for a specified period after approval but before the transfer is made.

The powers in subsections (4) and (5) allow the Department to make regulations under the confirmatory procedure per subsection (10) about the onboarding conditions.

Subsection (5) allows provision to be made in the regulations about: (a) the information and evidence that must be provided by the trustees of the ceding scheme and the receiving superfund to satisfy the Regulator that an onboarding condition is met, (b) how the Regulator assesses that the condition is met, and (c) the conditions that may or should be imposed under subsection (3).

Subsection (6) allows the Department to make regulations subject to negative resolution (see subsection (11)) to modify subsection (2) and how it applies to any superfund transfers of the kind described in section 48(3) (in cases where, for example, there are mergers of sections within a superfund).

Subsection (7) defines specified terms that apply in relation to a superfund transfer.

Clause 54: Special provision for certain schemes coming out of assessment period
Clause 54 modifies the onboarding conditions in clause 53(2) to allow for schemes that are required to be wound up, or whose winding up is required to continue, following a Pension Protection Fund assessment period to be transferred to a superfund, provided the transfer increases the proportion of transferred liabilities likely to be satisfied and will not lead to any member being worse off. The other onboarding conditions in clause 53(2) will apply.

Clause 55: Applications for approval
Clause 55 sets out that an application for approval of a superfund transfer must be made jointly by the trustees of the ceding scheme and the responsible body of the receiving superfund. An application must be made in the manner and form specified by the Pensions Regulator.

Subsection (3) requires the Pensions Regulator to decide whether or not to approve a superfund transfer and to notify the applicants of the decision as soon as reasonably practicable. Subsection (4) gives a power to the Department to make regulations detailing the documents and information that must be included in an application. The regulations will be subject to negative resolution.

Chapter 4: Ongoing Requirements of Operating Superfunds

Governance and organisation

Clause 56: Governance and structure

Clause 56 sets out the policies and practices the responsible body must put in place that will allow the superfund to be managed and administered in the interests of scheme members, and in compliance with the requirements of this Part and any other relevant pensions legislation.

Subsection (2) requires the policies and procedures to address how the responsible body, the superfund entities and the trustees of the superfund scheme should work together, how investment decisions will be made, and how conflicts should be resolved and risks managed.

Subsection (3) sets out that the responsible body must make certain that the superfund complies with any conditions specified in regulations made by the Department as to (a) corporate form and jurisdiction of tax residence and of incorporation of superfund group members, (b) the structure of the superfund group, (c) terms of the capital buffer arrangement, and (d) compliance with tax legislation.

Subsection (4) applies civil penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 in the event of breaches of subsection (1) or (3) of this clause.

Subsections (5) and (6) allow the Department to make regulations, using the confirmatory procedure, to amend this clause to add, remove or vary matters which the policies and procedures mentioned in subsection (1) must address.

Clause 57: Management documents

This clause sets out the requirements for the management documents of the superfund and provides that the responsible body of the superfund is responsible for them. The form and content of the management documents may be specified in regulations subject to negative resolution.

These documents are listed and defined in subsections (3) and (4). They include a business plan, a governance manual (setting out how and by whom a superfund is administered), a continuity strategy for protecting the interests of members of the scheme if an event of concern occurs, and a fees and expenses policy (setting out how superfund fees and expenses incurred will be funded). Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches this clause. Subsection (6) allows the Department to make regulations adding, removing or varying a management document in subsection (3), using the confirmatory procedure (see subsection (8)).

Funding and investment

Clause 58: Duty to monitor financial thresholds

Subsection (1) of this clause requires superfunds to have effective policies and procedures in place to be able to monitor the financial thresholds, which are set out in clause 59. Subsection (2) provides that Article 10 of the Pensions (Northern Ireland)

Order 1995 (civil penalties) applies to the responsible body for a breach of subsection (1).

Clause 59: "Financial thresholds"
Subsections (1) to (6) define the financial thresholds that apply to superfunds. These financial thresholds are an important tool in the superfund regulatory framework. When a threshold is breached it will trigger an event of concern under Chapter 5.

Subsection (4) sets out that the protected liabilities threshold will be met if the total value of the assets of the scheme and the capital buffer exceeds a specified percentage of the scheme's protected liabilities. Under subsection (6), "specified" means specified in regulations made by the Department. Providing for the percentage to be set in regulations gives flexibility to adjust the threshold over time if necessary, rather than fixing it in the Bill.

Subsection (7) allows the Department, by regulations, to make provision about how to determine whether any of the financial thresholds is met. This includes how the value of the scheme assets and of the capital buffer is determined for each of the financial thresholds; how the likelihood of the scheme's liabilities being satisfied in full for the purposes of the capital adequacy threshold is to be assessed; what constitutes a "very high" likelihood in terms of a particular percentage or criteria; how the amount of the scheme's protected liabilities is to be determined for the purposes of the protected liabilities threshold; how the risk of a scheme's failing to satisfy its liabilities is to be determined for the purposes of the scheme solvency threshold; and what constitutes a "material" likelihood for the purposes of the scheme solvency threshold, including provision defining that expression by reference to a particular percentage or particular criteria.

Subsection (8) allows the Department, when making regulations under subsection (7), to confer a discretion on the Pensions Regulator as to how it approaches these requirements, and subsection (9) requires the use of the confirmatory procedure for these regulations or regulations under subsection (4).

Clause 60: Capital buffer: compulsory release to trustees
Clause 60 sets out the responsibilities of parties to the capital buffer arrangement in relation to an operating superfund. Subsection (1) sets out specific requirements for the capital buffer arrangement relating to the circumstances when assets should be released to the trustees. These circumstances would be either (a) as part of an approved response plan, or (b) at the direction of the Pensions Regulator.

Subsection (2) specifies that the capital buffer is "released" when it is transferred or made available to another person, but not when it is transferred or made available in the ordinary use of investments for the capital buffer, or in the payment of fees, expenses, taxes or any other charges connected to the administration of the capital buffer.

Under subsection (3), Article 83A of the Pensions (Northern Ireland) Order 2005 (civil penalties) applies to a person who breaches subsection (1).

Clause 61: Capital buffer: permitted release to other persons

Clause 61 sets out the responsibilities of a person that is a party to the capital buffer arrangement to ensure that the arrangement does not permit the capital buffer to be released to anyone other than scheme trustees (for example to investors) except as expressly permitted by subsection (2) or (3).

Subsection (2) permits the capital buffer arrangement to permit the release of the capital buffer in full (a) if all liabilities to and in respect of scheme members have been satisfied, or (b) where an insurance buyout has taken effect to cover all liabilities to scheme members.

The extraction of profit is an important facet of the superfunds regime, allowing investors to get a return on their investments. Subsections (3) and (4) provide for a capital buffer arrangement to permit the release of an amount of the capital buffer to a person other than the trustees where it is done as a permitted profit extraction. Subsection (4) sets out what is meant by 'permitted profit extraction'. This means a release to a person of a description specified by regulations of an amount from the capital buffer in circumstances where the capital adequacy threshold is (and has been) exceeded to an extent specified in the regulations. The Department may also specify additional conditions in regulations that must be met for a release of a capital buffer to qualify as "permitted profit extraction". Subsection (9) specifies that the confirmatory procedure applies to these regulations.

Subsection (5) makes it an offence to cause or permit the release of any amount of the capital buffer to (a) anyone other than the scheme trustees and (b) otherwise than in accordance with the capital buffer arrangements. Subsection (6) sets out of the mode of trial and penalties for an offence under subsection (5).

Subsection (7) applies the penalties under Article 83A of the Pensions (Northern Ireland) Order 2005 (financial penalties) to a person who causes or permits any amount of the capital buffer to be improperly released. Subsection (8) applies penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) to a person who breaches subsection (1).

Clause 62: Capital buffer: investment

Clause 62(1) to (5) requires the responsible body of a superfund to implement an investment strategy for the capital buffer, and this strategy must comply with the requirements set out by the Department in regulations made under the confirmatory procedure (see subsection (8)). These requirements may relate to investment principles that are to be followed and the form and content of the investment strategy. The investment strategy may not be materially altered without agreement from the trustees.

Subsection (6) provides a power for the Department to make regulations for what counts as a "material" alteration in subsection (5) (subject to negative resolution). Subsection (7) applies civil penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 to the responsible body of the superfund if it fails to comply with subsection (1).

Clause 63: Capital buffer: verification of valuations

Clause 63(1) requires the responsible body of an operating superfund to appoint a person to verify valuations of the capital buffer that are carried out by the body or on its behalf. Subsection (2) requires a verification of the value of the capital buffer to occur at least once in every 12-month period and subsection (3) requires the value to be verified where requested to do so by the trustees of the superfund scheme or otherwise required by virtue of this Part.

Subsection (4) requires the appointed person to (a) be independent of the superfund group and (b) have the appropriate qualifications and experience to conduct the valuation. Subsection (5) requires the consent of the trustees for the appointment.

Subsection (6) applies penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) to the responsible body if it breaches any provisions under this clause.

Approval and certification of key personnel

Clause 64: Key functions

This clause requires the responsible body of an operating superfund to ensure, at all times, that there is one or more individuals responsible for each key function.

Subsection (2) lists the key functions, which include taking management decisions, financial decisions, investment decisions, risk management, internal audit, and marketing and promotion.

Subsection (3) sets out that an activity is not a key function if it only relates to the superfund scheme and not to another part of the superfund.

Subsection (4) applies the penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 for breaches of the clause by the responsible body, and subsection (5) gives the Department the power to add, remove or vary a "key function" through regulations, which under subsection (6) are subject to the confirmatory procedure.

Clause 65: Approval of individuals responsible for key functions

Clause 65 (1) prevents an individual from being responsible for a key function (see clause 64) unless approved by the Pensions Regulator. The Pensions Regulator will only be able to approve an individual if satisfied as to the person's fitness to be responsible for the key function in question (subsection (2)).

Subsection (3) provides for the Department to make regulations, subject to negative resolution (see subsection (11)), specifying matters that the Regulator must take into account in deciding whether an individual is a fit and proper person to have responsibility for a key function in relation to operating a superfund.

To avoid a conflict of interest, an individual cannot be approved as having responsibility for risk management if they are already responsible for investment decisions, and vice versa. Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to an individual and the responsible body for breaches of subsection (1).

Clause 66: Certification of staff supporting individuals responsible for key functions

Subsection (1) of this clause requires the responsible body of a superfund to certify that it believes individuals carrying out key functions are fit and proper persons to carry out these activities. Certificates must be issued to the individuals, and the responsible body must keep a register of these certificates.

Subsection (3) requires that the responsible body must consider any matters specified in regulations in order to meet its obligations under subsection (1)(a). Under subsection (4), the Department can make regulations about these certificates, including about how long a certificate is valid. The regulations will be subject to negative resolution (subsection (6)). Subsection (5) applies Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) to the responsible body if it breaches subsection (1).

Clause 67: Approval of superfund scheme trustees

Clause 67 prevents a person from being a trustee of an operating superfund scheme unless approved for that role by the Pensions Regulator (subsection (1)). Subsection (2) requires the Regulator to be satisfied of a person's fitness to be a trustee before providing approval. Subsections (3) to (9) make provision in connection with the Regulator's approval. For example, subsection (3) allows the Department to make regulations about matters to be taken into account by the Regulator in making an assessment about a person's fitness to be a trustee and subsection (6) provides that. approval may be granted for a specified time or subject to specified conditions. The Regulator may suspend or revoke its approval for an individual to be a trustee where it is no longer satisfied as to a person's fitness to be a trustee (subsection (8)).

Subsection (10) applies civil penalties using Article 10 of the Pensions (Northern Ireland) Order 1995 where a person breaches subsection (1), and these penalties apply to the trustee and the person who appointed them.

Information and reporting

Clause 68: Events to be notified to the Regulator

Clause 68 sets out responsibilities and the process for notifying the Pensions Regulator of certain events. Subsection (1) lists the events that the responsible body of an operating superfund must notify the Regulator about: for example, a material deterioration in the investment performance of the capital buffer.

Subsection (2) lists the events that the trustees of a superfund scheme must notify the Regulator about: for example, a material deterioration in the investment performance of the superfund scheme. Subsection (3) specifies when such notification must be made.

Subsection (5) applies the provision in Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) to a person who breaches this clause. The regulation-making power in subsection (6) allows the Department, using the confirmatory procedure (see subsection (7)), to amend the list of events that must be notified to the Regulator, and to make provision about counts as "material" for the purposes of any paragraph of subsection (1) or (2) (in relation to the material deterioration in the

investment performance of a capital buffer for the purposes of subsection (1)(a), for example).

Clause 69: Regular reporting
The trustees of an operating superfund scheme are required by this clause to provide the Pensions Regulator with regular reports on the financial position of the superfund.

Subsection (2) requires the reports to comply with any regulations made by the Department including regarding (a) their form and content and (b) when they must be submitted. The regulations will be subject to negative resolution (subsection (4)). Subsection (3) applies civil penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 to the trustees where they breach this clause.

Clause 70: Returns
This clause allows the Pensions Regulator by notice to require the responsible body of an operating superfund to provide the Regulator with information to enable the Regulator to monitor the financial position of the superfund or compliance with the ongoing requirements of Chapter 4.

Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies where a responsible body fails to submit the required return in accordance with the requirements of the notice.

Clause 71: Reports in relation to alleged compliance breaches
Clause 71 allows the Pensions Regulator to appoint a person to prepare a report about a suspected breach of the requirements of Chapter 4. Subsection (2) provides that the responsible body of the superfund must provide assistance to the person appointed to prepare the report and cover the reasonable costs of the Regulator in relation to the report.

Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it fails to do either of the things required by subsection (2).

Clause 72: Provision of information by responsible body to trustees
This clause requires the responsible body of an operating superfund to provide the trustees of the scheme with any information they might reasonably request to enable the trustees to comply with relevant legislation relating to the scheme. Subsection (2) applies Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) to the responsible body if it fails to provide the information.

Chapter 5: Events of concern
Clause 73: "Event of concern" and "period of concern"
Subsection (1) sets out a list of the circumstances in relation to a superfund that give rise to an event of concern, which will require action to be taken as set out in Chapter 5.

Subsection (2) provides that a period of concern begins in relation to an event of concern immediately after the event takes place and ends when the Pensions Regulator is

satisfied that corrective action has been taken where appropriate and issues a notice to that effect, or the superfund scheme is wound up.

Subsection (3) defines a "material transaction" in subsection (1)(g) as a transaction where either (a) there is a change in person(s) who control the responsible body or (b) a member of the superfund group sells all or substantially all of its assets.

Subsection (4) enables the Department to make regulations, using the confirmatory procedure as required in subsection (7), to provide that an event of concern within subsection (1)(a) does not take place unless the Regulator is satisfied that the financial threshold in question is not met or unless the threshold is not met for a period, or in circumstances, specified in the regulations. The regulations may also provide for the exercise of discretion by the Pensions Regulator in relation to the specified period or circumstances.

Subsection (5) allows the Department to add, remove or vary an event of concern in subsection (1) or a material transaction in subsection (3).

Clause 74: Notification of Regulator in respect of events of concern
Clause 74 requires certain persons with involvement in an operating superfund (defined as "relevant persons") to inform the Pensions Regulator as soon as reasonably practical after becoming aware that an event of concern either has taken place or will or is likely to take place. Subsection (2) specifies that this action is not required if the person knows that the Regulator is already aware of the event of concern. Subsection (3) specifies the relevant persons who have an obligation to notify the Regulator under this section.

Clause 75: Responding to events of concern
Clause 75 sets out powers that must be exercised by the Pensions Regulator where an event of concern takes place in relation to an operating superfund. Under subsection (1) the Pensions Regulator must require the responsible body or scheme trustees (or both jointly) to propose a plan for responding to the event of concern within a period specified by the Regulator.

If the Regulator is satisfied with a proposed response plan, subsection (2) requires the plan's approval by the Regulator. If the Regulator is not satisfied, subsection (3) requires the Regulator to explain why not, and the relevant person must revise the plan and resubmit it to the Regulator. Subsection (4) allows an approved response plan to be amended or replaced, provided the Regulator and the person that proposed the plan agree.

Subsection (5) requires the Regulator to give notice to the person that proposed the plan once the Regulator is satisfied that an approved response plan has been carried out, and the event that plan relates to has been adequately resolved.

Clause 76: Content of response plan
Clause 76 sets out what a response plan must contain. These requirements are (a) the plan outcome, (b) key steps to achieve the outcome, (c) when and by whom the steps

are to be taken and (d) how members of the superfund scheme are to be kept informed about the plan's progress.

Subsections (3) to (8) set out certain requirements - for example, the capital buffer being released to the trustees or the winding up of the scheme - that the superfund response plan must account for in relation to certain events of concern.

Subsection (9) allows the Department to make regulations to specify further contents of a response plan. Under subsection (10), the regulations are subject to negative resolution.

Clause 77: Regulator's direction-making powers during period of concern
During a period of concern, the Pensions Regulator may, by virtue of this clause, give directions to a member of the superfund group or the trustees of the superfund scheme. A direction may require any or all of the steps referred to in subsection (1)(a) to (d) to be taken in relation to the scheme.

For example, if a person has failed to comply with clause 75(1) or (3)(b)], subsection (1)(c) allows the Pensions Regulator to direct a member of the superfund group or the trustees to take steps to address the event of concern.

Subsection (2) confirms that a direction under (1)(c) cannot require the provision of financial support to the superfund scheme. A person may be subject to penalties under clauses 79 and 80 for a failure to comply with the Regulator's directions in a timely manner.

Clause 78: Directions to pause payments or transfers of liabilities: supplementary provision
This clause sets out requirements that apply in relation to directions issued by the Pensions Regulator under clause 77(1)(d) to pause either payments or transfers of liabilities from the superfund scheme. Subsection (2) sets out that pause directions may only be used if the Regulator is satisfied that they are reasonably necessary to protect the interests of scheme members. Subsections (3) to (7) set out how pause directions are to operate, when they are to cease operating in specific circumstances and how payments affected by pause directions are to be handled.

Subsection (8) allows the Department to make regulations to modify Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993 (transfer rights etc.) to account for pause directions affecting the transfer of liabilities from a superfund scheme. Under subsection (9), any such regulations would be made subject to the confirmatory procedure.

Clause 79: Fixed penalty notices
This clause allows the Pensions Regulator to issue a fixed penalty notice to any person who has failed to comply with clause 74, 75 or 77, and require payment of the penalty to be made within a specific time period.

Subsection (3) allows the Department to make regulations about how the amount of a penalty is to be determined but provides that the amount of a penalty must not exceed £100,000. These regulations will be subject to negative resolution, as set out in subsection (6).

Subsection (4) sets out the details to be included in a fixed penalty notice.

Subsection (5) sets out the sections of the Pensions (No. 2) Act (Northern Ireland) 2008 that apply to a penalty notice issued under this clause.

Clause 80: Escalating penalty notices

Clause 80 allows the Pensions Regulator to issue escalating penalty notices in relation to a failure by a person to comply with clause 74, 75 or 77 in circumstances where the person has not paid a fixed penalty imposed under clause 79 in relation to the failure. An escalating penalty notice allows a penalty calculated by reference to a daily rate to be imposed on the person who has failed to comply. Subsection (3) allows the Department to make regulations about how the daily rate of an escalating penalty notice is to be determined and provides that the amount of a penalty must not exceed £20,000. These regulations may be made under the negative procedure as per subsection (7).

Subsection (4) sets out the circumstances where the Pensions Regulator may not issue an escalating penalty notice. Subsection (5) sets out the information an escalating penalty notice must contain. Subsection (6) sets out the sections of the Pensions (No. 2) Act (Northern Ireland) 2008 that apply to an escalating penalty notice issued under this clause.

Clause 81: Withdrawal of authorisation

Clause 81 allows the Pensions Regulator to withdraw authorisation from a superfund if satisfied that the superfund has failed to comply with the provisions of Chapter 4 or Chapter 5.

Clause 82: Release of capital buffer treated as reducing employer debt

This clause makes it clear that where some or all of the capital buffer is released in consequence of a debt falling due to the trustees under Article 75 of the Pensions (Northern Ireland) Order 1995, then the debt is reduced by the value of the assets released.

Chapter 6: General Provision and Interpretation

Clause 83: Power to extend superfunds legislation to similar structures

This clause allows the Department to make regulations to extend the provisions applicable to superfunds in Part 3 to similar structures that would not otherwise fall within the scope of the superfund regime, where these similar structures involve a trust-based occupational pension scheme with defined-benefit liabilities and without the support of a substantive employer covenant. Subsection (4) sets out that the power in subsection (1) to make regulations can be used to amend an Act of Parliament or any Northern Ireland legislation. Under subsection (5), these regulations would be subject to the confirmatory procedure.

Clause 84: Construction of "occupational pension scheme" and "employer" in relation to superfund schemes

This clause is designed to ensure that superfund schemes, despite their special characteristics, fit within the legislative framework applicable to occupational pension schemes.

The definition of "occupational pension scheme" in section 1 of the Pension Schemes (Northern Ireland) Act 1993 provides (broadly speaking) that to be an occupational pension scheme, a scheme must be established by a person for the purpose of providing benefits to that person's employees. The legislation applicable to occupational pension schemes pre-supposes that there will be at least one "employer" in relation to a scheme.

Superfund schemes present particular issues here, since there is no traditional "employer" and it will not necessarily be obvious when a scheme is established who its eventual members will be. The intention, however, is for them to be regulated as occupational pension schemes, and for them to be structured in a way that works within the relevant legislative framework.

The expectation is that prospective superfund schemes will structure themselves so as to fall within subsection (1). That means that on a scheme's establishment, there will need to be an employee of some description who may receive benefits from the scheme. This may, for instance, involve an employee of the commercial entity that establishes the superfund being admitted to the scheme.

Subsection (2) ensures that, where a scheme structures itself in that way, it is assumed to pass the purpose test in the definition of "occupational pension scheme" in section 1 of the Pension Schemes (Northern Ireland) Act 1993 (even if, in reality, the scheme is established for the purpose of consolidating DB liabilities from other schemes, rather than for the purpose of providing benefits to the person or people admitted to it on day one).

Subsection (3) clarifies how the key definitions of "the employer" in the Pensions (Northern Ireland) Order 1995 and the Pensions (Northern Ireland) Order 2005, as well as in this Part, work in relation to a superfund scheme. Those Orders define "employer" by reference to the description of employment to which the scheme relates. Subsection (3) makes it clear that, for a superfund scheme, that includes the description of employment relevant to its "day one" member or members.

Subsection (4) makes provision about sectionalised schemes and ensures that these can be structured in such a way as to ensure that each section has its own "employer".

Clause 85: Consequential amendments

This clause makes specified amendments to legislation in consequence of the provisions of this Part.

Clause 86: Transitional provision
This clause makes provision about the way in which the transitional powers in clause 96(9) may be exercised in relation to superfunds that have been given interim authorisations by the Pensions Regulator.

These are authorisations provided to superfunds by the Regulator before this Part comes into operation, under existing arrangements operated by the Regulator for assessing and supervising superfunds.

The Department will be able to use its transitional powers to modify how this Part applies in relation to superfunds with an interim authorisation. For example, the regulations may provide for a grace period to be set to allow such operating superfunds to continue to operate legally in the interests of their members while they go through the authorisation procedure.

Clause 87: Interpretation of Part
The clause defines various terms used in Part 3.

Part 4: Miscellaneous and General
Miscellaneous
Clause 88: Pension protection levies
Articles 157 to 164A of the Pensions (Northern Ireland) Order 2005 set out provisions in relation to the pension protection levy, including the Board of the Pension Protection Fund's duties, restrictions on the amount of the levy that the Board can collect and other matters.

Clause 88 amends the relevant provisions that require the PPF Board to collect a levy and enables the Board to decide whether to collect a levy. It removes the restriction that prevents the Board from reducing the levy to zero or a low amount and raising it again within a reasonable timeframe. It introduces a new safeguard to cap annual increases in the levy. The section also removes spent provisions, including those relating to the initial levy (Article 157) and the transitional period (Article 163), which are no longer applicable. Further, it makes consequential amendments to ensure consistency across the legislation, such as updating references and definitions, and clarifying the matters the Board must consider when deciding whether to impose levies.

Subsection (4)(a) amends Article 158 to give the PPF Board discretion not to impose a levy at all. Currently, the Board must impose both a risk-based and scheme-based levy. Under the amended Article 158 if the PPF Board decides to collect a risk-based levy under paragraph (1)(a), paragraph (1)(b) also allows the Board to collect a scheme-based levy in respect of certain eligible schemes (or all eligible schemes).

The existing Article 158(2) provides that the risk-based levy is a levy assessed by reference to certain risk factors. Article 158(3) sets out the other risk factors that the Board can consider when assessing the levy. Subsection (4)(b) of the clause inserts a new sub-paragraph (aa) into Article 158(3). This new sub-paragraph enables the Board, when making its assessment, to consider the risk posed by a scheme that the Board

considers is not supported by a substantive employer covenant. This allows the Board to consider the position in relation to schemes supported by alternative covenant arrangements, where there may be limited or no substantive employer covenant.

Subsection (4)(e) inserts a new paragraph (7A) to define schemes "not supported by a substantive employer covenant" for the purposes of paragraph (3)(aa). This is based on, the definition of alternative covenant schemes in Part 3 of the Bill.

Subsection (5) amends Article 159 (supplementary provisions about pension protection levies). The amended Article 159 requires the PPF Board to consult before it makes certain determinations under Article 158(5) if no levy had been imposed in the previous financial year and when it decides to collect a levy. The PPF Board is also required to publish details in a prescribed manner of (a) any decision to collect or not to collect a levy for any financial year, and (b) any determination made under Article 158(5).

Subsection (6) amends Article 160 (amounts to be raised by pension protection levies). It inserts a new paragraph (A1) that provides that paragraphs (1) to (5) apply only where the Board decides to collect both or one of the risk-based and scheme-based levies for the financial year.

Subsection (6)(d) replaces the restriction in Article 160(5) that prevents the Board of the Pension Protection Fund from charging an annual levy of more than 25 per cent of the previous year's levy estimate. The new provision restricts the Board from charging a levy that is more than the sum of the previous financial year's levy and 25 per cent of the previous financial year's levy ceiling.

Subsection (9) makes a consequential amendment to Article 288 (Assembly etc. control of orders and regulations).

Clause 89: Pensions dashboards

Subsection (2) amends Article 185 of the Pensions (Northern Ireland) Order 2005 to grant the Department the power to require the Pension Protection Fund to send information in a way that can be used by dashboards.

Subsection (3) amends Article 215A of the Pensions (Northern Ireland) Order 2005 to grant the Department the power to make regulations requiring Qualifying Pensions Dashboard Services to display information about the Pension Protection Fund and the Financial Assistance Scheme, including information that relates to an individual.

Subsection (4) amends Article 215C of the Pensions (Northern Ireland) Order 2005 to provide a definition of the Financial Assistance Scheme.

Clause 90: Information to be given to pension schemes by employers

This clause inserts new section 11A into the Pensions (No. 2) Act (Northern Ireland) 2008. Section 11A(1) provides a power for the Department to make regulations requiring employers to provide information about jobholders and workers to the trustees or managers of the pension scheme of which the jobholder or worker is an active

member. Section 11A(1)(a) and (b) describe the individuals that are in scope, covering the various ways by which they may have become active members of pension schemes.

For example, section 11A(1)(a) covers a jobholder automatically enrolled under section 3 of the Pensions (No. 2) Act (Northern Ireland) 2008 (because an automatic enrolment scheme would also be a qualifying scheme pursuant to section 17(1)(a) of that Act), as well as a jobholder who has been contractually enrolled into a qualifying scheme. Section 11A(1)(b) covers a worker who has become an active member of a pension scheme pursuant to section 9 of the Pensions (No. 2) Act (Northern Ireland) 2008, as well as a worker who has been contractually enrolled into a qualifying scheme (because a qualifying scheme would also satisfy the requirements in section 9(7) of that Act).

New section 11A(2) enables regulations to set out what information must be provided, how and in what format it should be provided, and the timing requirements for provision of the information.

New section 11A(3) provides that regulations may require employers to provide information in respect of individuals ceasing to be jobholders or workers. For example, regulations may provide that employers are to inform the relevant pension scheme that an employee has since left their employment.

Subsection (3) amends section 34 of the Pensions (No. 2) Act (Northern Ireland) 2008 to extend the compliance provisions in sections 35 to 39 of that Act to provision made under the new section 11A.

Clause 91: Funding of the Board of the Pension Protection Fund

Subsection (1) amends the Pensions (Northern Ireland) Order 2005 to abolish the Department's power to pay to the PPF Board the grant-in-aid monies and to impose the Pension Protection Fund administration levy.

Subsection (2) provides that the Pension Protection Fund administration levy is not payable for the financial years 2023/4 and 2024/5 when collection of the administration levy was suspended.

Subsection (3) omits paragraph 3 of Schedule 9 to the Pensions (No. 2) Act (Northern Ireland) 2008, which makes an amendment about interest for late payment of the administration levy that has not been brought into operation.

Clause 92: Funding of the Ombudsman for the Board of the Pension Protection Fund

Clause 92 makes technical changes to the Pension Schemes (Northern Ireland) Act 1993, enabling the expenditure of the Ombudsman for the Board of the Pension Protection Fund to be recovered from the general levy payable by occupational and personal pension schemes with effect from 1 April 2007 to reflect the practice in operation since that date (clause 96(8)(d) treats this clause as having come into operation on 1 April 2007).

General

Clause 93: Amendments of the Pensions (Northern Ireland) Order 2005

This clause provides that consequential amendments to the Pensions (Northern Ireland) Order 2005 are detailed in the Bill's Schedule.

Clause 94: Regulations under this Act

This clause makes provision about how powers to make regulations under the Bill may be exercised. It includes a definition of "the confirmatory procedure" and allows regulations that would otherwise be subject to negative resolution to be made in regulations subject to that procedure.

Clause 95: References to "the Department"

This clause provides that any reference in the Bill to "the Department" means the Department for Communities.

Clause 96: Commencement

This clause sets out the arrangements for commencing the provisions of the Bill.

Clause 97: Short title

This clause sets out the short title by which the Act may be referred to in other legislation, legal documents and general use.

Schedule: Amendments of the Pensions (Northern Ireland) Order 2005

Paragraph 1 introduces amendments being made to the Pensions (Northern Ireland) Order 2005 ("the 2005 Order").

Paragraph 2 amends Article 2 of the 2005 Order to insert definitions which relate to superfunds.

Paragraph 3 amends Article 7(6) of the 2005 Order so that the Determinations Panel can exercise reserved regulatory functions on behalf of the Pensions Regulator where applications are made for authorisation of a superfund, for approval of superfund transfers, for approval of individuals to be responsible for key functions and for approval of individuals to be trustees of a superfund scheme.

Paragraph 4 amends Article 9 of the 2005 Order by extending existing provisions under which the Pensions Regulator may issue improvement notices to include the new provisions in this Bill for Defined Contribution Pensions (Part 2) and Superfunds (Part 3).

Paragraph 5 extends the existing list of persons required to report breaches of the law to the Pensions Regulator under Article 65(1) of the 2005 Order. This includes a member of the superfund group and a person who is responsible for a key function of a superfund.

Paragraph 6 extends the existing list of persons to whom the Pensions Regulator can issue a notice requiring the production of a document or provision of certain information, under Article 67 of the 2005 Order, to include a member of the superfund group and a person who is responsible for a key function of a superfund.

Article 68 of the 2005 Order provides that a person appointed by the Pensions Regulator may enter premises that are liable to inspection to investigate whether specified provisions are being complied with. Paragraph 7 adds to these provisions in Article 68(2) of that Order the provisions in Chapters 1, 2, 4, and 5 of Part 2 and the provisions in Part 3 (superfunds) of this Bill, as well as sections 28A to 28G of the Pensions (No. 2) Act (Northern Ireland) 2008.

Paragraph 8 adds clauses 79 and 80 of the Bill to the list of provisions in Article 71(3)(a) of the 2005 Order. This means inspections of premises under the 2005 Order can occur when there is a question whether a regulatory provision subject to penalties under clauses 79 or 80 is being, or has been, complied with.

Paragraph 9 amends the provisions in Article 72A of the 2005 Order so that the amount of the penalty in a fixed penalty notice relating to the operation of a superfund will be a maximum of £100,000. This is where the recipient of the notice is a trustee of an operating superfund scheme, the responsible body of an operating superfund or the person responsible for a key function of an operating superfund.

Paragraph 10 amends the provisions in Article 72B of the 2005 Order so that the daily amount of the penalty in an escalating penalty notice relating to the operation of a superfund must not exceed £20,000 where the recipient of the notice is a trustee or the responsible body of an operating superfund, or a person responsible for a key function of an operating superfund.

Paragraph 11 makes it an offence for a person to provide false or misleading information to the Pensions Regulator under Article 75 of the 2005 Order in circumstances where the person intends the information to be used, or could be reasonably expected to know the information would be used, by the Regulator for the purpose of exercising its functions in relation to the provisions in Chapters 1, 2, 4, or 5 of Part 2 or the provisions in Part 3 (superfunds) of this Bill.

Paragraph 12 applies the penalties under Article 83A of the 2005 Order, by amending Article 75A of that Order, to a person that knowingly or recklessly provides false or misleading information to the Regulator in circumstances where the person intends the information to be used, or could be reasonably expected to know the information would be used, by the Regulator for the purpose of exercising its functions in relation to the provisions in Chapters 1, 2, 4 or 5 of Part 2 or the provisions in Part 3 (superfunds) of this Bill.

Paragraph 13 amends Article 85 of the 2005 Order, which gives the Pensions Regulator powers to issue codes of practice. The amendment means the Regulator must issue codes of practice relating to the process for making an application for authorisation of a superfund and for approval of a superfund transfer; for the matters the Regulator expects to take into account when deciding if it is satisfied in the course of making decisions about whether to authorise a superfund or approve a superfund transfer; and for the ongoing requirements for operating superfunds. This amendment also adds Chapters 1, 2, 4, and 5 of Part 2 and Part 3 (superfunds) of this Bill, as well as provisions

in the Pensions (No. 2) Act (Northern Ireland) 2008 in relation to the scale requirement in section 28B and the asset allocation requirement in section 28C of that Act, to the definition of pensions legislation in Article 85(6) of the 2005 Order.

Paragraph 14 amends Article 88 of the 2004 Order to require the Pensions Regulator to determine the procedures it intends to follow in relation to the issuance of a notice triggering an event of concern and the issuance of directions during a period of concern.

Paragraph 15 extends the list of regulatory functions in Article 92(5) of the 2005 Order to which special procedures under Article 92 may apply to include the Pensions Regulator's exercise of the power to withdraw authorisation from a superfund; to suspend or revoke its approval for a person to be responsible for a key function in relation to a superfund or to be a trustee of a superfund scheme; to issue a notice triggering events of concern for a superfund; and to give a direction during a period of concern.

Paragraph 16 amends Article 110 of the 2005 Order so that each separate section of a superfund scheme as provided for by clause 48(2) of the Bill is an eligible scheme for the purposes of Part 3 of the Bill.

Paragraph 17 amends Article 111 of the 2005 Order so that an eligible superfund scheme will be treated as though it has had a qualifying insolvency event for the purposes of entry to the Pension Protection Fund in certain circumstances. These circumstances occur when there is an event of concern where the protected liabilities threshold of the superfund scheme ceases to be met and where there is no qualifying insolvency event in relation to the employer that occurred before the event of concern took place.

Paragraph 18 amends Article 201 of the 2005 Order to enable the Pensions Regulator to determine the methods and assumptions that are to be used in calculating a superfund scheme's technical provisions (the amount required on actuarial calculation to make provision for liabilities). Regulations may require the Regulator, in making its determination, to take into account prescribed matters and follow prescribed principles.

Paragraph 19 amends Article 203 of the 2005 Order to require the trustees of a superfund scheme to send a copy of an actuarial report to the Pensions Regulator as soon as is reasonably practicable together with such other information as prescribed by regulations.

Paragraph 20 amends Article 233 of the 2005 Order to provide that a trustee or manager of an occupational or personal pension scheme cannot be reimbursed out of scheme assets in respect of a fine imposed for an offence of which he is convicted, or a penalty which he is required to pay, by virtue of clause 10, 24 or 43 of the Bill.

Paragraph 21 amends Schedule 2 of the 2005 Order to insert Part 8 to include reserved regulatory functions of the Pensions Regulator under the Bill.

FINANCIAL EFFECTS OF THE BILL

58. The Bill is not expected to have a significant direct impact on public expenditure in Northern Ireland. As with the corresponding legislation in Great Britain, the majority of costs arising from the provisions will be borne by pension providers, trustees and employers, rather than the public sector. The financial and regulatory impacts in Northern Ireland will be assessed through a Northern Ireland–specific Regulatory Impact Assessment.

59. There may be some additional costs for regulators and pension bodies associated with implementing and supporting the measures enabled by the Bill. However, these costs are expected to be limited and may be mitigated over time through market consolidation and administrative efficiencies arising from the reforms. Any additional regulatory costs may be met through existing funding mechanisms, including the general levy on pension schemes, consistent with arrangements in Great Britain.

HUMAN RIGHTS ISSUES

60. The Department considers that the provisions of the Bill are compatible with the European Convention on Human Rights. The Bill engages several Convention rights, in particular Article 1 of Protocol 1 (protection of property), Article 6 (right to a fair hearing), Article 8 (respect for private life and home) and Article 14 (non-discrimination, read with Article 1 of Protocol 1).

61. Any interference with these rights arises from the regulation and oversight of pension schemes and is prescribed by law, pursues legitimate public interest aims including protecting scheme members, maintaining the integrity and sustainability of pension provision, supporting economic wellbeing, and preventing misuse of pension assets.

62. The provisions are proportionate and include appropriate safeguards, such as procedural fairness, rights to make representations, and rights of appeal to independent tribunals or courts.

EQUALITY IMPACT ASSESSMENT

63. In accordance with its statutory duty under section 75 of the Northern Ireland Act 1998, the Department has conducted an Equality Screening. The screening indicates that the Bill does not give rise to any significant differential impact on equality of opportunity or good relations across the section 75 categories.

64. The provisions apply consistently across scheme members and beneficiaries and are intended to preserve regulatory coherence and legal certainty for pension schemes operating on a UK-wide basis.

65. As the Bill largely mirrors existing and recently introduced Great Britain legislation and does not introduce new eligibility criteria or benefits that would disproportionately affect particular groups, no adverse equality impacts have been identified.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

66. The Pension Schemes Bill is a parity measure which corresponds to provisions in the UK Pension Schemes Act 2026 and is intended to improve outcomes for pension savers while supporting employers and the wider economy.

67. The Regulatory Impact Assessment indicates that the package of measures is expected to deliver significant long-term benefits for members, including improved value for money, better retirement outcomes and reduced risks associated with small and deferred pension pots.

68. Although some measures may lead to transitional or compliance costs for pension providers and scheme administrators, the overall assessment identifies a net direct saving to business across the UK, alongside substantial indirect benefits through increased consolidation, improved governance and efficiencies of scale. The regulatory framework is designed to reduce the prevalence of poor-value schemes and enable pension schemes to invest more effectively, with no significant direct impact on public expenditure.

69. As a parity measure, the impacts for Northern Ireland pension savers and employers are expected to align broadly with those in Great Britain, ensuring continued consistency within the UK-wide pensions system.

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

70. A Data Protection Impact Assessment screening exercise has been conducted, and it concluded that a full Data Protection Impact Assessment is not required.

71. While the Bill makes provision in relation to information to be given to pension schemes by employers, these requirements reflect existing obligations within the pensions regulatory framework and do not introduce new categories of personal data or new or materially different data-sharing arrangements. The Bill does not alter the purposes for which personal data is processed, nor the roles and responsibilities of data controllers and processors. Accordingly, no additional data protection risks have been identified, and existing safeguards and controls will continue to apply.

RURAL NEEDS IMPACT ASSESSMENT

72. A Rural Needs Impact Assessment has been undertaken in accordance with section 1 of the Rural Needs Act (Northern Ireland) 2016. The assessment concluded that the Bill does not give rise to any specific rural needs considerations, as the provisions apply uniformly across Northern Ireland and do not affect access to pension schemes, employer obligations, or scheme administration in a way that would disadvantage rural communities.

73. Accordingly, no adverse impacts for people living in rural areas have been identified.

LEGISLATIVE COMPETENCE

74. At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Pension Schemes Bill would be within the legislative competence of the Northern Ireland Assembly."

SECRETARY OF STATE CONSENT

75. The Secretary of State's consent is required by section 8 of the Northern Ireland Act 1998, and a statement of such consent is required for the purpose of section 10(3)(b) of that Act:

"The Secretary of State has consented to the Assembly considering this Bill"



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