Pension Schemes Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

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'S CONSENT

The following statement is for the purpose of section 10(3)(b)of the Northern Ireland Act 1998:

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

Pension Schemes Bill

[AS INTRODUCED]

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SCHEDULE:

Schedule — Amendments of Pensions (Northern Ireland) Order 2005

A

BILL

TO

Make provision about pension schemes; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

PART 1

DEFINED BENEFIT PENSIONS

Power to modify scheme to allow for payment of surplus to employer

1.—(1) After Article 36A of the Pensions (Northern Ireland) Order 1995 insert—

"Power to modify scheme in relation to payment of surplus to employer

36B.—(1) The trustees of a trust scheme may by resolution modify the scheme in accordance with paragraph (2) or (3).

(2) Where no power is conferred on any person to make payments to the employer out of funds held for the purposes of the scheme, the resolution may confer a power to do so on the trustees, subject to any restrictions specified in the resolution.

(3) Where a power is exercisable by the trustees (whether or not by virtue of paragraph (2)) to make payments to the employer out of funds held for the purposes of the scheme, the resolution may remove or relax any restriction imposed by the scheme on the exercise of the power.

(4) This Article does not apply to a scheme that is being wound up.

(5) Any power to distribute assets to the employer on a winding up is to be disregarded for the purposes of paragraphs (2) and (3); and a resolution under paragraph (2) may not confer such a power.

(6) The reference in paragraph (3) to a restriction imposed by the scheme includes a restriction imposed by virtue of a resolution under Article 228 of the Pensions (Northern Ireland) Order 2005 (which was repealed by section 1(2) of the Pension Schemes Act (Northern Ireland) 2027) or this Article.

(7) Regulations may provide that this Article does not apply, or applies with prescribed modifications, in prescribed circumstances or to schemes of a prescribed description.

(8) See also Article 37 (which limits the circumstances in which a power to make payments of surplus may be exercised).".

(2) In the Pensions (Northern Ireland) Order 2005, omit Article 228 (old resolution procedure in relation to payment of surplus).

(3) Subsection (2) does not affect the validity of a resolution passed under the Article it repeals.

Restrictions on exercise of power to pay surplus

2.—(1) In this section, "the 1995 Order" means the Pensions (Northern Ireland) Order 1995.

(2) Article 37 of the 1995 Order (restrictions on power to pay surplus to employer) is amended in accordance with subsections (3) to (6).

(3) After paragraph (2) insert—

"(2A) The power referred to in paragraph (1)(a) may be exercised only so far as permitted by, and only in accordance with, regulations.

(2B) Regulations must be made under paragraph (2A)—

(a) prohibiting the making of a payment unless an actuary of a prescribed description ("the relevant actuary") is satisfied that prescribed conditions are met in relation to the value of the scheme's assets and the amount of its liabilities,

(b) making provision about the basis (or bases) on which the value of the scheme's assets and the amount of its liabilities are to be determined for that purpose,

(c) requiring the relevant actuary to give a certificate before a payment is made, and

(d) requiring members of the scheme to be notified in relation to a payment before it is made.

(2C) The provision that may be made by regulations under paragraph (2A) includes provision—

(a) about other conditions that must be met in order for the making of a payment to be permitted;

(b) about the giving of certificates by the relevant actuary, including about the form and content of a certificate;

(c) prohibiting the making of a payment without the employer's consent;

(d) in relation to a superfund scheme (within the meaning of Part 3 of the Pension Schemes Act (Northern Ireland) 2027)—

(i) prohibiting the making of a payment in all circumstances;

(ii) prohibiting the making of a payment without the Authority's consent.

(2D) The power referred to in paragraph (1)(a) may not be exercised if there is a freezing order in force in relation to the scheme under Article 19 of the Pensions (Northern Ireland) Order 2005.".

(4) Omit paragraphs (3) and (4).

(5) In paragraph (6)(a), for "the requirements of this Article" substitute "paragraph (2A)".

(6) For paragraph (8) substitute—

"(8) Regulations may provide that this Article does not apply, or applies with prescribed modifications, in prescribed circumstances or to schemes of a prescribed description.".

(7) In Article 76 of the 1995 Order (excess of assets on winding up), for paragraph (8) substitute—

"(8) Regulations may provide that this Article does not apply, or applies with prescribed modifications, in prescribed circumstances or to schemes of a prescribed description.".

(8) In Article 167(3A) of the 1995 Order (Assembly etc. control of orders and regulations), after "Article" insert "37(2A),".

PART 2

DEFINED CONTRIBUTION PENSIONS

CHAPTER 1

VALUE FOR MONEY

Relevant schemes: value for money

3.—(1) The Department may make regulations ("value for money regulations") for the purpose of evaluating, and promoting best practice with regard to, the provision of value for money by—

(a) prescribed descriptions of relevant pension schemes ("regulated VFM schemes"), and

(b) prescribed descriptions of arrangements under relevant pension schemes ("regulated VFM arrangements").

(2) Value for money regulations may in particular require responsible trustees or managers to—

(a) make, and publish (in whole or part) reports of, assessments ("VFM assessments") of the performance of—

(i) regulated VFM schemes, or

(ii) regulated VFM arrangements,

with regard to the provision of value for money in respect of prescribed periods ("VFM periods");

(b) notify the Pensions Regulator of any publication they make under paragraph (a);

(c) publish or share with prescribed persons in respect of—

(i) regulated VFM schemes or (as the case may be) regulated VFM arrangements, and

(ii) VFM periods,

prescribed categories of information ("metric data") for the purpose of enabling VFM assessments to be made (with respect to the scheme or arrangement in question and other regulated VFM schemes or regulated VFM arrangements).

(3) A duty to publish information under subsection (2)(c) may be a duty to publish the information for a specified period.

(4) Where value for money regulations require responsible trustees or managers to make a VFM assessment with respect to a scheme or arrangement, the regulations may require those trustees or managers to—

(a) assign to the scheme or arrangement, and set out in the VFM assessment, a rating for that period (a "VFM rating"), and

(b) notify the Pensions Regulator of the rating.

(5) Value for money regulations may specify—

(a) the method for calculating anything that is to be calculated under the regulations;

(b) the time at or by which anything required to be done under the regulations must be done.

(6) In complying with value for money regulations a person must have regard to any guidance issued from time to time by the Department.

(7) The Department must consult with such persons as it considers appropriate before—

(a) making value for money regulations;

(b) issuing guidance under subsection (6).

(8) In this Chapter, "responsible trustees or managers" means any of the following—

(a) trustees or managers of a regulated VFM scheme;

(b) trustees or managers of a relevant pension scheme any arrangements under which are regulated VFM arrangements.

(9) Nothing in this Chapter prejudices the breadth of subsections (1) and (2).

(10) Value for money regulations are subject to the confirmatory procedure, but this is subject to subsection (11).

(11) Any exercise, after the first, of the power to prescribe categories of information by virtue of subsection (2)(c) is subject to negative resolution.

(12) In this Chapter "relevant pension scheme" means an occupational pension scheme that provides money purchase benefits, but this is subject to subsection (13).

(13) Value for money regulations may provide that where an occupational pension scheme provides money purchase benefits in conjunction with other benefits, references in this Chapter (other than this subsection) to the occupational pension scheme are to an occupational pension scheme only to the extent that it provides money purchase benefits.

Publication etc. of metric data

4.—(1) Categories of information prescribed under section 3(2)(c) may for example relate to—

(a) the quality of services provided to members of the scheme or (as the case may be) arrangement;

(b) classes of assets invested in;

(c) investment performance;

(d) costs incurred by the scheme or (as the case may be) arrangement;

(e) charges on members or employers in relation to the scheme or (as the case may be) arrangement.

(2) Value for money regulations made by virtue of section 3(2)(c) may—

(a) specify time limits within which metric data in respect of a VFM period must be published or shared;

(b) make provision about the form in which and the means by which metric data is to be published or shared;

(c) require the published or shared information to deal separately with different cohorts of members of the scheme or (as the case may be) arrangement;

(d) require a person appointed under the regulations to make available, for the publication or sharing of metric data, an electronic database (operated by that person);

(e) require responsible trustees or managers, on publishing or sharing any information under regulations made by virtue of section 3(2)(c), to notify the Pensions Regulator—

(i) of the publication of the information and where it is published, or

(ii) (as the case requires) of the sharing of the information.

(3) Value for money regulations made by virtue of section 3(2)(c) may require the Pensions Regulator to—

(a) determine the form in which metric data must be published or shared, and

(b) publish, or share with the Department and responsible trustees or managers, details of the form so determined.

VFM assessments

5.—(1) Value for money regulations made by virtue of section 3(2)(a) may—

(a) require responsible trustees or managers to compare (in respect of a VFM period) a scheme's or arrangement's metric data with—

(i) the metric data of a prescribed number (or prescribed minimum number) of other schemes or arrangements ("comparator" schemes or arrangements) selected by the trustees or managers, or

(ii) one or more relevant benchmarks;

(b) make other provision about the method for comparing and evaluating the performance of schemes or arrangements, for example provision about—

(i) factors that may or must be considered;

(ii) criteria to be used in comparing performance;

(iii) the use and evaluation of evidence;

(c) make provision about how the results of comparisons are to be taken into account in making determinations under section 7(1) (determinations for the purposes of assigning ratings);

(d) make provision about the eligibility of—

(i) relevant pension schemes for selection as comparator schemes;

(ii) arrangements under relevant pension schemes for selection as comparator arrangements;

(e) specify factors that responsible trustees or managers must take into account when selecting comparator schemes or comparator arrangements.

(2) Without prejudice to the breadth of subsection (1)(b)(i), factors prescribed in accordance with that provision may for example include—

(a) factors relating to differences in the composition of the membership of different schemes or arrangements;

(b) special features or characteristics of schemes or arrangements that are taken into account in their investment strategies.

(3) In this section "relevant benchmark" means—

(a) a benchmark specified in value for money regulations;

(b) if value for money regulations so provide, a benchmark approved and published by the Pensions Regulator.

Member satisfaction surveys

6.—(1) Value for money regulations may—

(a) require responsible trustees or managers to—

(i) issue VFM member satisfaction survey forms to relevant members from time to time as directed by the relevant authority;

(ii) make reports ("survey data reports") of information returned in such forms;

(b) provide that survey data reports (or survey data reports that meet prescribed conditions) relating to a VFM period are to be regarded as metric data for the purposes of this Chapter;

(c) require the relevant authority to carry out consultation before issuing forms under paragraph (a);

(d) if regulations are made under paragraph (c), make provision about who must be consulted.

(2) In this section—

"relevant authority" means whichever of the Department or the Pensions Regulator is designated in the regulations as the relevant authority;

"relevant member" means—

(a) in relation to a responsible trustee or manager within section 3(8)(a), a member of the relevant pension scheme concerned;

(b) in relation to a responsible trustee or manager within section 3(8)(b), a member of an arrangement by virtue of which the trustee or manager is a responsible trustee or manager;

"VFM member satisfaction survey form" means a request, in a form approved by the relevant authority, for inviting from relevant members information regarding their level of satisfaction with the service provided by the scheme or arrangement (as the case requires).

VFM ratings

7.—(1) Responsible trustees or managers who are required by virtue of section 3(4)(a) to assign a VFM rating to a scheme or arrangement in respect of a VFM period (the "relevant period") must assign to the scheme or (as the case requires) arrangement—

(a) a "fully delivering" rating if the responsible trustees or managers determine that the scheme or arrangement is delivering value for money;

(b) a "not delivering" rating if—

(i) the responsible trustees or managers determine that the scheme or arrangement is not delivering value for money, and

(ii) Condition A, B or C of subsection (2) is met;

(c) in any other case, an intermediate rating.

(2) For the purposes of subsection (1)(b)(ii)—

(a) Condition A is met if the responsible trustees or managers determine that there is no realistic prospect of the scheme or (as the case may be) arrangement delivering value for money within a reasonable period;

(b) Condition B is met if the responsible trustees or managers have assigned an intermediate rating to the scheme or arrangement in each of a prescribed number of VFM periods immediately preceding the relevant period;

(c) Condition C is met if the Pensions Regulator notifies the responsible trustees or managers that the Regulator—

(i) considers that the responsible trustees or managers have failed to comply with an improvement plan or an action plan relating to the scheme or arrangement (and the VFM period), and

(ii) does not consider the failures to be so minor that they should be ignored.

(3) Value for money regulations must specify the number of grades of intermediate rating.

(4) If value for money regulations provide that there are to be two or more intermediate ratings, the regulations—

(a) may name each of those ratings;

(b) must specify the conditions for assigning each of those ratings.

(5) Where, apart from this subsection, a scheme or arrangement would be assigned a "not delivering" rating in respect of a VFM period by virtue of Condition B of subsection (2) being met, the Pensions Regulator may, if it considers that prescribed conditions are met, by notice to the scheme or arrangement authorise the responsible trustees or managers to assign to the scheme or arrangement (instead of a "not delivering" rating) any intermediate rating the Pensions Regulator considers appropriate.

(6) In this Chapter "action plan", in relation to a regulated VFM scheme or regulated VFM arrangement, means a plan under section 8(2)(c) or 9(1)(a) which—

(a) sets out the responsible trustees' or managers' assessment as to whether or not transferring the benefits of the members (under the scheme or arrangement) to another scheme or arrangement could reasonably be expected to result in the generality of those members receiving improved long-term value for money, and

(b) proposes measures (or options for measures) for improving the position (with regard to value for money) of members or subsets of members of the scheme or arrangement.

(7) An action plan may not include a proposal to transfer the benefits (under the scheme or arrangement) of some or all of the members of that scheme or arrangement unless the responsible trustees or managers determine that the proposed transfer could reasonably be expected to result in the generality of those members receiving improved long-term value for money.

(8) Value for money regulations may make further provision about what may or must be included in an action plan.

Consequences of an intermediate rating

8.—(1) Value for money regulations may make provision about the consequences of the assigning under section 7(1) of an intermediate rating to a regulated VFM scheme or regulated VFM arrangement in respect of a VFM period.

(2) Without prejudice to the breadth of subsection (1), value for money regulations may require responsible trustees or managers of a scheme or arrangement to which any grade of intermediate rating has been assigned to—

(a) prepare a plan (an "improvement plan") specifying actions that the responsible trustees or managers propose to take with a view to improving

the scheme's or (as the case may be) arrangement's performance with regard to the provision of value for money;

(b) provide a copy of the plan to the Pensions Regulator;

(c) prepare an action plan and provide a copy of it to the Pensions Regulator;

(d) give notice in a prescribed format to any person who is a participating employer in relation to the scheme or arrangement of—

(i) the VFM rating that has effect in relation to the scheme or arrangement;

(ii) any actions specified by virtue of paragraph (a) in an improvement plan;

(iii) any actions the trustees or managers consider it is appropriate for the employer to take having regard to the rating assigned to the scheme or arrangement;

(e) ensure that no person becomes an employer in relation to the scheme or arrangement for as long as the scheme or (as the case may be) arrangement continues to have an intermediate rating;

(f) take any other steps that may be prescribed.

(3) Value for money regulations may—

(a) make further provision about what may or must be included in an improvement plan;

(b) confer additional functions on the Pensions Regulator in connection with schemes that are assigned an intermediate rating.

(4) In this section—

"employer", in relation to a regulated VFM scheme or regulated VFM arrangement, means a person who employs persons who are members of the scheme or (as the case requires) arrangement;

"participating employer", in relation to a regulated VFM scheme or regulated VFM arrangement, means an employer who is for the time being making contributions to the scheme or (as the case requires) arrangement.

Consequences of a "not delivering" rating

9.—(1) A regulated VFM scheme or regulated VFM arrangement to which a "not delivering" rating has been assigned (an "affected" scheme or arrangement) must—

(a) prepare an action plan and provide a copy of it to the Pensions Regulator;

(b) give notice in a prescribed format to any person who is a participating employer in relation to the scheme or arrangement of—

(i) the VFM rating that has effect in relation to the scheme or arrangement;

(ii) any actions the trustees or managers consider it appropriate for the employer to take having regard to the "not delivering" rating;

(c) ensure that with effect from the publication of the VFM assessment in which the rating is set out no person is to become an employer in relation to the scheme or (as the case may be) arrangement;

(d) take any other steps that may be prescribed.

(2) Where a transfer solution (see subsection (3)) applies to an affected scheme or arrangement, the Pensions Regulator may—

(a) require the accrued rights and benefits of all (or a subset of) the members of the scheme or arrangement to be transferred to a pension scheme (or arrangement under a pension scheme) that—

(i) is selected by the responsible trustees or managers, and

(ii) meets prescribed conditions;

(b) specify conditions that must be met by a scheme or arrangement selected under paragraph (a).

(3) For the purposes of subsection (2), a transfer solution applies to an affected scheme or arrangement if—

(a) the Pensions Regulator considers that—

(i) based on the assessment carried out by the responsible trustees or managers under section 7(6)(a) in the action plan of the scheme or arrangement, transferring the benefits of all (or a subset of) the members of the scheme or arrangement to another pension scheme (or arrangement under a pension scheme) could reasonably be expected to result in the generality of the members of the scheme or arrangement receiving improved long-term value for money, and

(ii) any other measures proposed under section 7(6)(b) in the action plan of the scheme or arrangement are unlikely to result in its achieving an intermediate (or "fully delivering") rating or substantially improving its performance with regard to the provision of value for money, and

(b) any prescribed conditions are met.

(4) Value for money regulations may make provision—

(a) about the process for transferring accrued rights and benefits under subsection (2) (which may for example include provision for restricting or prohibiting administrative costs and as to time limits);

(b) conferring on the Pensions Regulator power to direct the trustees or managers of the affected scheme to do things permitted or required by the regulations;

(c) conferring a discretion on the Pensions Regulator;

(d) about the winding up of a relevant scheme in circumstances where the accrued rights and benefits of the members are, or are to be, transferred out of the scheme.

(5) In this section, "employer" and "participating employer" have the same meaning as in section 8.

Compliance and oversight

10.—(1) Value for money regulations may make provision for ensuring compliance with value for money provisions.

(2) In this section, "value for money provision" means a provision of or made under any of sections 3 to 9.

(3) Value for money regulations may in particular—

(a) provide for the Pensions Regulator to issue a notice (a "compliance notice") to a person with a view to ensuring the person's compliance with a value for money provision;

(b) provide for the Pensions Regulator to issue a notice (a "third party compliance notice") to a person with a view to ensuring another person's compliance with a value for money provision;

(c) provide for the Pensions Regulator to issue a notice (a "penalty notice") imposing a penalty on a person where the Pensions Regulator is of the opinion that the person—

(i) has failed to comply with a compliance notice or third party compliance notice, or

(ii) has contravened a value for money provision;

(d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;

(e) confer other functions on the Pensions Regulator.

(4) Value for money regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

(5) The amount of a penalty imposed under value for money regulations in respect of a failure or contravention must not exceed—

(a) £10,000, in the case of an individual, and

(b) £100,000, in any other case.

(6) Value for money regulations may provide that where the Pensions Regulator has, in compliance with a requirement of regulations under subsection (3)(c)(ii), imposed a penalty on a person the Regulator is to be authorised to withdraw the penalty if—

(a) the Regulator considers it appropriate to do so having regard to the circumstances in which the contravention took place, and

(b) any prescribed conditions are met.

(7) Value for money regulations may provide—

(a) that if the Regulator determines that a rating assigned by responsible trustees or managers for the purposes of section 3(4)(a) is not correct, the Regulator may by a notice (a "directions notice") substitute for that rating the rating the Regulator considers should have been assigned;

(b) that, where the Pensions Regulator substitutes a rating by virtue of paragraph (a), that rating is to be deemed for all purposes to be the rating assigned to the scheme under section 7(1).

(8) A directions notice under subsection (7) must set out the reasons for the Pensions Regulator's determination.

(9) Value for money regulations may provide for the making of a reference to the First-tier Tribunal or the Upper Tribunal in respect of a determination of the Pensions Regulator under subsection (7)(a).

(10) The Pensions (Northern Ireland) Order 1995 is amended as follows.

(11) In Article 7 (appointment of trustees)—

(a) in paragraph (3), after sub-paragraph (a) insert—

"(aa) where paragraph (3A) or (3B) applies, to secure that the trustees as a whole have the skills and knowledge necessary for ensuring that the scheme, or an arrangement under it, improves its performance as regards the provision of value for money,";

(b) after paragraph (3) insert—

"(3A) This paragraph applies where—

(a) the trust scheme is a regulated VFM scheme (as defined in section 3(1)(a) of the Pension Schemes Act (Northern Ireland) 2027), and

(b) the most recent rating assigned to the scheme under section 7(1) of that Act was an intermediate or "not delivering" rating.

(3B) This paragraph applies where—

(a) an arrangement under the trust scheme is a regulated VFM arrangement, and

(b) the most recent rating assigned to the arrangement under section 7(1) of that Act was an intermediate or "not delivering" rating.";

(c) after paragraph (6) insert—

"(7) In this paragraph, "regulated VFM arrangement" and "regulated VFM scheme" are to be interpreted in accordance with section 13 of the Pension Schemes Act (Northern Ireland) 2027.".

(12) In Article 11 (powers to wind up schemes), in paragraph (1)—

(a) omit the "or" after sub-paragraph (b), and

(b) after sub-paragraph (c) insert—

"(d) the scheme is a regulated VFM scheme and—

(i) the rating most recently assigned to the scheme under section 7(1) of the Pension Schemes Act (Northern Ireland) 2027 is "not delivering", and

(ii) the Authority are satisfied that the scheme is not capable of providing value for money, or

(e) the following conditions are met in relation to a regulated VFM arrangement under the scheme—

(i) that the rating most recently assigned to the arrangement under section 7(1) of the Pension Schemes Act (Northern Ireland) 2027 is "not delivering", and

(ii) the Authority are satisfied that the arrangement is not capable of providing value for money.";

(c) after paragraph (7) insert—

"(8) In paragraph (1)—

(a) "regulated VFM arrangement" and "regulated VFM scheme" have the same meaning as in Chapter 1 of Part 2 of the Pension Schemes Act (Northern Ireland) 2027 (see section 13 of that Act);

(b) the reference to the provision of value for money is to be interpreted in accordance with that Chapter.".

Sharing of database where FCA makes corresponding rules

11.—(1) This section applies if the Financial Conduct Authority makes rules, in relation to persons regulated by it, that correspond to value for money regulations.

(2) The Department may by regulations make provision for the purpose of enabling or facilitating the use of the database mentioned in section 4(2)(d) for the publication or sharing of information—

(a) that relates to persons to whom the rules made by the Financial Conduct Authority apply, and

(b) that corresponds to metric data,

including provision conferring functions on a person appointed as mentioned in section 4(2)(d).

(3) Regulations under subsection (2) are subject to negative resolution.

Crown application

12.—(1) This Chapter applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.

(2) Accordingly, references in this Chapter to a person in their capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(3) This Chapter applies to persons employed by or under the Crown as it applies to persons employed by a private person.

Interpretation of Chapter

13. In this Chapter—

"action plan" has the meaning given by section 7(6);

"fully delivering rating" means a "fully delivering" VFM rating (see section 7(1)(a));

"improvement plan" is to be interpreted in accordance with section 8(2)(a);

"intermediate rating" means an "intermediate" VFM rating (see section 7(1)(c));

"metric data" is to be interpreted in accordance with section 3(2)(c);

"money purchase benefits" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 176(1) of that Act);

"not delivering rating" means a "not delivering" VFM rating (see section 7(1)(b));

"occupational pension scheme" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 1(1) of that Act);

"prescribed" means prescribed by value for money regulations;

"regulated VFM arrangement" is to be interpreted in accordance with section 3(1)(b);

"regulated VFM scheme" is to be interpreted in accordance with section 3(1)(a);

"relevant pension scheme" is to be interpreted in accordance with section 3(12) and (13);

"responsible trustees or managers" is to be interpreted in accordance with section 3(8);

"trustee or manager" means—

(a) in relation to a scheme established under a trust, the trustees;

(b) in relation to any other scheme, the managers,

(including in the words that define "responsible trustees or managers" in section 3(8));

"value for money regulations" has the meaning given by section 3(1);

"VFM assessment" has the meaning given by section 3(2)(a);

"VFM period" is to be interpreted in accordance with section 3(2)(a);

"VFM rating" is to be interpreted in accordance with section 3(4)(a).

Chapter 2

Consolidation of Small Dormant Pension Pots

Power to make small pots regulations

Small pots regulations

14.—(1) The Department may make regulations ("small pots regulations") for the purpose of securing that small dormant pension pots held by auto-enrolment schemes are—

(a) held by consolidator schemes, and

(b) in the case of consolidator schemes that have more than one arrangement, held subject to consolidator arrangements.

(2) A pension pot is "small" if its value, determined as at such time and in such manner as is prescribed, is £1,000 or less (but is not nil).

(3) A pension pot is "dormant" if—

(a) no contributions were paid into the pension pot by, or on behalf or in respect of, the individual for whom the pot is held during such period of at least 12 months as is prescribed, and

(b) the individual has, subject to any prescribed exceptions, taken no step to confirm or alter the way in which the pension pot is invested.

(4) The period that may be prescribed under subsection (3)(a) in relation to a pension pot in existence at the time the regulations come into operation may begin at any time after the coming into operation of this section.

(5) Small pots regulations—

(a) are subject to the confirmatory procedure if they—

(i) are the first such regulations,

(ii) prescribe a person under section 15(1) (determination of destinations for small pots),

(iii) include provision under section 16(1) or 18(1) (requirements to send transfer notices or transfer pension pots), or

(iv) amend or repeal provision contained in an Act of Parliament or any Northern Ireland legislation;

(b) otherwise, are subject to negative resolution.

Transfers

Determination of destinations for small pots

15.—(1) Small pots regulations must require a prescribed person to make, in relation to each small dormant pension pot held by an auto-enrolment scheme—

(a) a proposal in relation to the pot ("the default proposal"), and

(b) one or more other proposals in relation to the pot ("the alternative proposals").

(2) For the purposes of this Chapter a "proposal", in relation to a small dormant pension pot, means a proposal that—

(a) the pot should be held by a specified consolidator scheme, and

(b) if there is more than one arrangement under that scheme, the pot should be held subject to a specified arrangement under the scheme.

In this subsection, "specified" means specified in the proposal.

(3) Subsection (1) does not apply in relation to a small dormant pension pot if—

(a) the auto-enrolment scheme that holds the pot is itself a consolidator scheme,

(b) any of the sums or assets comprising the pot, or any sums or assets from which any of the sums or assets comprising the pot derive, were at any time comprised in a small dormant pension pot in respect of which a transfer notice was sent under small pots regulations, and

(c) no response to that notice was received under section 16(3)(d)(ii).

(4) A person prescribed under subsection (1) may be a body corporate established by or under the regulations.

(5) Small pots regulations may, in compliance with subsection (1)—

(a) prescribe one person to make all of the proposals required to be made under that subsection, or

(b) prescribe two or more persons in relation to different descriptions of those proposals.

(6) Small pots regulations must require a proposal made by virtue of subsection (1) to be notified to the trustees or managers of the auto-enrolment scheme that holds the pension pot to which the proposal relates (unless those trustees or managers are themselves the destination proposer).

(7) A person prescribed under subsection (1) is referred to in this Chapter as a "destination proposer".

Transfer notices

16.—(1) Small pots regulations must require the trustees or managers of an auto-enrolment scheme to prepare a notice ("a transfer notice") in respect of each small dormant pension pot held by the scheme that is not exempt and send it to the individual for whom the pot is held.

(2) Small pots regulations must require a transfer notice in respect of a pension pot to comply with the following provisions of this section.

(3) The notice must—

(a) set out the default proposal in relation to the pot;

(b) set out the alternative proposal or proposals in relation to the pot;

(c) state that, if the individual does not respond to the notice, the pot will—

(i) if the default proposal specifies that the pot be transferred to a consolidator scheme, be transferred to that scheme, and

(ii) if there is more than one arrangement under the consolidator scheme specified in the default proposal, be held subject to the arrangement so specified;

(d) invite the individual to consider whether they are content with the default proposal and, if not, to respond to the notice stating either—

(i) that they want to adopt one of the alternative proposals and if so which, or

(ii) that they do not want any action to be taken in relation to the pension pot.

(4) Where membership of a consolidator scheme or a consolidator arrangement specified in a proposal set out in a transfer notice entails being a party to a contract

with the trustees or managers of the scheme, the notice must set out, or otherwise communicate, the terms of such a contract.

(5) The notice must include such details as may be prescribed relating to—

(a) the pension pot,

(b) the auto-enrolment scheme, and

(c) the consolidator scheme or schemes, and any consolidator arrangements, specified in a proposal set out in the notice.

Exempt pots

17.—(1) A small dormant pension pot is "exempt" if—

(a) prescribed conditions are met in relation to the pot, and

(b) the trustees or managers of the scheme that holds it determine that it is in the best interests of the individual for whom the pot is held that it should not be transferred in accordance with small pots regulations.

(2) A determination in relation to an individual under subsection (1)(b) may be made by reference to a class of individuals of which the individual in question is a member.

(3) Small pots regulations may include further provision about how determinations under subsection (1)(b) are to be made.

Transfer etc. of small dormant pension pots

18.—(1) Small pots regulations must require the trustees or managers of an auto-enrolment scheme, in relation to each small dormant pot held by the scheme in respect of which they have sent a transfer notice, to implement the proposals set out in the notice in accordance with this section.

(2) Subsection (1) does not apply to a pension pot if the trustees or managers have received a response under section 16(3)(d)(ii) in relation to it.

(3) Small pots regulations must secure that if—

(a) the trustees or managers do not receive a response to the notice, and

(b) the default proposal involves the transfer of the pot to a consolidator scheme,

the trustees or managers are required to transfer the pot to that scheme.

(4) Small pots regulations must secure that if—

(a) the trustees or managers receive a response to the notice, and

(b) the alternative option identified by the individual under section 16(3)(d)(i) involves the transfer of the pot to a consolidator scheme,

the trustees or managers are required to transfer the pot to that scheme.

(5) Small pots regulations must secure that if—

(a) the trustees or managers do not receive a response to the notice, and

(b) the default proposal involves the pot being held by a consolidator scheme subject to an arrangement specified in the proposal,

the pot is required to be held subject to that arrangement.

(6) Small pots regulations must secure that if—

(a) the trustees or managers receive a response to the notice, and

(b) the alternative proposal identified by the individual under section 16(3)(d)(i) involves the pot being held by an arrangement specified in the proposal,

the pot is required to be held subject to that arrangement.

(7) The trustees or managers may transfer a pension pot by virtue of subsection (3) or (4), or change the arrangement subject to which a pension pot is held by virtue of subsection (5) or (6), notwithstanding that it breaches a term of the scheme (such as a requirement for consent); and any such breach is to be disregarded for all purposes.

Effect of transfer on membership of scheme etc.

19.—(1) Subsections (2) and (3) apply where a pension pot held for an individual is transferred by virtue of section 18(3) or (4) to a different pension scheme ("the receiving scheme").

(2) The individual becomes a member of the receiving scheme in relation to the pot, and acquires the rights, and becomes subject to the obligations, of membership.

(3) Where membership of the receiving scheme in relation to the pot entails being a party to a contract with its trustees or managers, a contract is treated as entered into between the individual and the trustees or managers—

(a) at the time at which the pension pot is transferred to the receiving scheme, and

(b) on the terms communicated to the individual by virtue of section 16(4).

(4) Subsections (5) and (6) apply where a pension pot is by virtue of section 18(5) or (6) held subject to a different arrangement under the same pension scheme, or an arrangement under a different pension scheme.

(5) The individual becomes a member of the arrangement in relation to the pot, and acquires the rights, and becomes subject to the obligations, of membership.

(6) Where membership of the arrangement in relation to the pot entails being a party to a contract with the trustees or managers of the pension scheme in question, a contract is treated as entered into between the individual and the trustees or managers—

(a) at the time at which the pension pot is first held subject to the arrangement, and

(b) on the terms communicated to the individual by virtue of section 16(4).

Timing of transfers

20.—(1) Small pots regulations must prohibit the trustees or managers of an auto-enrolment scheme from transferring a pension pot by virtue of section 18(3)

or (4), or changing the arrangement subject to which it is held by virtue of section 18(5) or (6), before the end of the required notice period.

(2) In subsection (1) "the required notice period", in relation to a pension pot, means the period of 30 days, or such longer period as may be prescribed, beginning with the day on which the transfer notice in respect of the pot is sent.

(3) Small pots regulations must (subject to subsection (5)) require the trustees or managers of an auto-enrolment scheme to effect any transfer of a pension pot by virtue of section 18(3) or (4), and any change in the arrangement subject to which it is held by virtue of section 18(5) or (6), before the end of the required transfer period.

(4) In subsection (3) "the required transfer period", in relation to a pension pot, means the period of one year beginning with—

(a) the date on which the provision of the regulations under which the requirement is imposed comes into operation, or

(b) if later, the date on which the pension pot first becomes small and dormant.

(5) Small pots regulations may include provision extending the required transfer period until the end of a prescribed period beginning with the date on which the trustees or managers are notified of the proposals made by virtue of section 15(1) in respect of the pot.

Authorisation

Authorisation of consolidator schemes etc. by the Pensions Regulator

21.—(1) Small pots regulations must permit the trustees or managers of an eligible Master Trust scheme to apply to the Pensions Regulator for authorisation of—

(a) the scheme, or

(b) such arrangements under the scheme as are specified in the application.

(2) Small pots regulations must require the Pensions Regulator to grant an application for authorisation where—

(a) the application is made in accordance with regulations made by virtue of subsection (1), and

(b) prescribed conditions are met.

(3) Small pots regulations may permit or require the Pensions Regulator, where prescribed conditions are, or cease to be, met in relation to a consolidator scheme or arrangement—

(a) to require the trustees or managers to take prescribed steps;

(b) to prohibit a destination proposer, in prescribed cases or in all cases, from specifying the scheme or arrangement in proposals under section 15(1);

(c) to withdraw authorisation.

(4) The conditions that may be prescribed under subsection (2)(b) or (3) include conditions relating to—

(a) the terms of the scheme,

(b) the value of sums and assets held by the scheme for the purpose of providing money purchase benefits,

(c) the fees charged by the scheme, or

(d) a VFM rating assigned to the scheme or any arrangement under the scheme;

and include conditions that involve the exercise of a discretion by the Pensions Regulator.

(5) Small pots regulations may permit or require the Pensions Regulator, where it withdraws authorisation, to require the trustees or managers of the scheme in question to take prescribed steps in relation to relevant pension pots.

(6) The steps that may be required to be taken by virtue of subsection (5) include steps to limit the fees that may be charged.

(7) For the purposes of subsection (5) a pension pot is "relevant" if—

(a) any of the sums or assets comprising the pot, or any sums or assets from which any of the sums or assets comprising the pot derive, were at any time comprised in a small dormant pension pot in respect of which a transfer notice was sent under small pots regulations, and

(b) no response to that notice was received under section 16(3)(d)(ii).

(8) For the purposes of this Chapter, a Master Trust scheme is "eligible" if it is authorised under section 5 of the Pension Schemes Act (Northern Ireland) 2021 (authorisation of Master Trust schemes).

Consolidator schemes and consolidator arrangements

22.—(1) In this Chapter, "consolidator scheme" means—

(a) an eligible Master Trust scheme—

(i) that is for the time being authorised by virtue of section 21(1)(a), or

(ii) any arrangement under which is for the time being authorised by virtue of section 21(1)(b), or

(b) an FCA-regulated pension scheme that is for the time being included on a list published by the FCA under section 137FBC(2)(b) of the Financial Services and Markets Act 2000.

(2) In this Chapter, "consolidator arrangement" means—

(a) an arrangement under an eligible Master Trust scheme where—

(i) the scheme is for the time being authorised by virtue of section 21(1)(a), or

(ii) the arrangement is for the time being authorised by virtue of section 21(1)(b), or

(b) an arrangement under an FCA-regulated pension scheme that is for the time being included on a list published by the FCA under section 137FBC(2)(b) of the Financial Services and Markets Act 2000.

Supplementary

Further provision about contents of small pots regulations

23.—(1) Small pots regulations may, in particular—

(a) authorise the Pensions Regulator to charge a prescribed fee in respect of an application for authorisation under the regulations;

(b) confer a right of appeal to the First-tier Tribunal or the Upper Tribunal;

(c) require the trustees or managers of a relevant pension scheme to take prescribed steps to improve the accuracy and completeness of information held by them;

(d) require a relevant person, other than the FCA, to provide prescribed information, in such form and at such time as may be prescribed, to—

(i) a relevant person, or

(ii) an individual for whom a relevant pension scheme holds a pension pot;

(e) require the trustees or managers of a relevant pension scheme to keep, and retain for a prescribed period, prescribed records;

(f) provide (otherwise than under paragraphs (c) to (e)) for the processing of information;

(g) limit the fees that may be charged by a relevant pension scheme in connection with the transfer of a pension pot under the regulations;

(h) require a destination proposer, the trustees or managers of a relevant pension scheme, or the Department, to pay compensation to an individual who has suffered a loss as a result of a breach of the regulations;

(i) confer (otherwise than under any of paragraphs (a) to (h)) a function on a relevant person, including a function involving the exercise of a discretion;

(j) provide for the delegation of a function conferred by the regulations.

(2) In subsection (1)(c) to (f), a reference to information includes personal data, and a reference to records includes records of personal data.

(3) The processing of personal data in accordance with the regulations does not breach—

(a) any obligation of confidence owed by the person processing the personal data, or

(b) any other restriction on the processing of personal data (however imposed).

(4) In this section—

"personal data" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

"processing" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

"relevant pension scheme" means—

(a) an auto-enrolment scheme, or

(b) a consolidator scheme;

"relevant person" means—

(a) the Pensions Regulator,

(b) the FCA,

(c) a destination proposer, or

(d) the trustees or managers of a relevant pension scheme.

(5) The power to make small pots regulations is capable of being exercised so as to amend or repeal provision contained in an Act of Parliament or any Northern Ireland legislation.

(6) In particular, small pots regulations may—

(a) amend section 142 of the Pension Schemes (Northern Ireland) Act 1993 (functions of the Pensions Ombudsman) so as to confer on the Pensions Ombudsman the function of investigating and determining complaints or disputes relating to a destination proposer;

(b) amend section 170 of that Act (levies towards certain expenditure) so as to include expenditure of—

(i) a destination proposer, or

(ii) the Department by virtue of subsection (1)(h) of this section (compensation).

Enforcement by the Pensions Regulator

24.—(1) Small pots regulations may make provision with a view to ensuring the compliance of any person who is not FCA-regulated with any provision of the regulations.

(2) The regulations may in particular—

(a) provide for the Pensions Regulator to issue a notice (a "compliance notice") to a person with a view to ensuring the person's compliance with a provision of the regulations;

(b) provide for the Pensions Regulator to issue a notice (a "third party compliance notice") to a person with a view to ensuring another person's compliance with a provision of the regulations;

(c) provide for the Pensions Regulator to issue a notice (a "penalty notice") imposing a penalty on a person where the person—

(i) has failed to comply with a compliance notice or third party compliance notice, or

(ii) has contravened a provision of the regulations;

(d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty.

(3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

(4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

(a) £10,000, in the case of an individual, and

(b) £100,000, in any other case.

(5) Any penalty payable under the regulations is recoverable by the Pensions Regulator as if the penalty were payable under an order of a county court.

(6) Where action is taken under subsection (5) for the recovery of a penalty, the penalty is to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

(7) The Pensions Regulator must pay into the Consolidated Fund any penalty recovered under this section.

(8) A reference in this section to a provision of small pots regulations includes a reference to a requirement or restriction imposed by the Pensions Regulator under the regulations.

Enforcement by the FCA

25.—(1) The Department may make regulations to enable the FCA to take action (in addition to any action it may otherwise take under the Financial Services and Markets Act 2000) for monitoring and enforcing compliance of an FCA-regulated person with any provision of small pots regulations.

(2) The regulations may apply, or make provision corresponding to—

(a) provision contained in small pots regulations by virtue of section 24, or

(b) any provision of the Financial Services and Markets Act 2000,

with or without modification.

(3) Regulations under this section—

(a) may not be made without the agreement of the Treasury;

(b) are subject to the confirmatory procedure.

(4) For the purposes of this Chapter, a person is "FCA-regulated" if they are 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.

Power to alter definition of "small"

26.—(1) The Department may by regulations amend section 14(2) (definition of "small" in relation to a pension pot) so as to substitute a larger or smaller amount for the amount for the time being specified there.

(2) Before making regulations under this section the Department must—

(a) consult such persons as the Department considers appropriate, and

(b) publish details of the proposed amendment, and the Department's reasons for making the proposal, and consider any representations made.

(3) Regulations under this section are subject to the confirmatory procedure.

Crown application

27.—(1) This Chapter applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.

(2) Accordingly, references in this Chapter to a person in their capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(3) This Chapter applies to persons employed by or under the Crown as it applies to persons employed by a private person.

Interpretation of Chapter

28.—(1) In this Chapter—

"the alternative proposals", in relation to a small dormant pension pot, has the meaning given by section 15(1);

"auto-enrolment scheme" has the meaning given by subsection (5);

"consolidator arrangement" has the meaning given by section 22(2);

"consolidator scheme" has the meaning given by section 22(1);

"the default proposal", in relation to a small dormant pension pot, has the meaning given by section 15(1);

"destination proposer" has the meaning given by section 15(7);

"dormant", in relation to a pension pot, has the meaning given by section 14(3);

"eligible", in relation to a Master Trust scheme, has the meaning given by section 21(8);

"exempt", in relation to a pension pot, has the meaning given by section 17;

"the FCA" means the Financial Conduct Authority;

"FCA-regulated", in relation to a pension scheme, has the meaning given by subsection (2);

"FCA-regulated", in relation to a person, has the meaning given by section 25(4);

"functions" includes powers and duties;

"Master Trust scheme" has the same meaning as in the Pension Schemes Act (Northern Ireland) 2021 (see section 1(1) of that Act);

"money purchase benefits" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 176(1) of that Act);

"pension pot" has the meaning given by section 29;

"pension scheme" has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993;

"prescribed" means prescribed by, or determined in accordance with, small pots regulations;

"proposal", in relation to a small dormant pension pot, has the meaning given by section 15(2);

"provider", in relation to an FCA-regulated pension scheme, means the person mentioned in subsection (2)(b);

"small", in relation to a pension pot, has the meaning given by section 14(2);

"small pots regulations" has the meaning given by section 14(1);

"terms", in relation to a pension scheme, has the meaning given by subsection (3);

"transfer", in relation to a pension pot, includes a transfer of an amount representing its value;

"transfer notice" has the meaning given by section 16(1);

"trustees or managers", in relation to a pension scheme, means (subject to subsection (4))—

(a) in the case of a scheme established under a trust, the trustees of the scheme, and

(b) in any other case, the persons responsible for the management of the scheme;

"VFM rating" has the same meaning as in Chapter 1.

(2) A pension scheme is "FCA-regulated" if the operation of the scheme—

(a) is carried on in such a way as to be a regulated activity for the purposes of the Financial Services and Markets Act 2000, and

(b) is carried on in the United Kingdom by a person who is in relation to that activity an authorised person under section 19 of that Act.

(3) A reference in this Chapter to the terms of a pension scheme is to the terms of any instrument or agreement—

(a) in which the scheme is comprised, or

(b) to which the provider of the scheme and any member are parties in connection with the scheme.

(4) A reference in this Chapter to the trustees or managers of a pension scheme is, where the scheme is FCA-regulated, a reference to the provider of the scheme.

(5) A pension scheme is an "auto-enrolment scheme" if any individual is or at any time was an active member of the scheme in consequence of arrangements under section 3(2), 5(2) or 7(3) of the Pensions (No. 2) Act (Northern Ireland) 2008 (arrangements for jobholder to become active member of automatic enrolment scheme).

(6) In subsection (5), "active member" has the same meaning as in Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 (see section 78 of that Act).

Meaning of "pension pot"

29.—(1) In this Chapter, "pension pot" means sums or assets held for the purpose of providing money purchase benefits to or in respect of a member of a pension scheme; and—

(a) a reference to the pension scheme that holds a pension pot is to that pension scheme;

(b) a reference to the individual for whom a pension pot is held is to that member.

(2) Where—

(a) an individual is a member of an auto-enrolment scheme in relation to more than one employment, and

(b) the sums or assets held by the scheme for the purpose of providing money purchase benefits to or in respect of the member in relation to those employments are accounted for separately by the scheme,

the sums or assets held in relation to each employment are regarded for the purposes of this Chapter as separate pension pots.

(3) In subsection (2), "employment" has the same meaning as in Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 (see section 78 of that Act).

Repeal of existing powers

Repeal of existing powers

30.—(1) In the Pensions Act (Northern Ireland) 2015, omit the following provisions (which contain powers that have not been brought into operation to make provision for the automatic transfer of pension benefits etc.)—

(a) section 32;

(b) Schedule 17, except paragraph 14(1) (which contains interpretative provisions that apply for the purposes of Schedule 18 to that Act).

(2) In Schedule 18 to that Act (power to restrict charges or impose requirements in relation to schemes), in paragraph 4 (interpretation), for sub-paragraph (1) substitute—

"(1) The definitions in paragraph 14(1) of Schedule 17 apply for the purposes of this Schedule.".

(3) In consequence of subsection (1)(b), in Article 233 of the Pensions (Northern Ireland) Order 2005 (no indemnification for fines or civil penalties), in paragraph (1)(b), for "or paragraph 3 of Schedule 18 to that Act" substitute "or paragraph 3 of Schedule 18 to the Pensions Act (Northern Ireland) 2015".

CHAPTER 3

SCALE AND ASSET ALLOCATION

Certain schemes providing money purchase benefits: scale and asset allocation

31.—(1) The Pensions (No. 2) Act (Northern Ireland) 2008 is amended as follows.

(2) Section 20 (quality requirement: UK money purchase schemes) is amended as follows.

(3) In the opening words of subsection (1), after "purchase scheme" insert "that is not a relevant Master Trust and".

(4) After subsection (1) insert—

"(1A) A money purchase scheme that is a relevant Master Trust satisfies the quality requirement in relation to a jobholder if the conditions in subsection (1)(a) to (c) and Condition 1 and Condition 2 of this subsection are met.

Condition 1

This Condition is that the relevant Master Trust—

(a) is approved under section 28A in respect of a main scale default arrangement,

(b) is exempted by regulations from the requirement for approval,

(c) has previously been approved under section 28E (transition pathway relief) and is to be treated in accordance with regulations as if it had approval under section 28A,

(d) qualifies under section 28E for transition pathway relief, or

(e) qualifies under section 28F for new entrant pathway relief.

Condition 2

This Condition is that the relevant Master Trust—

(a) is approved under section 28C in respect of the asset allocation requirement, or

(b) is exempted by regulations from the requirement for approval.

See also section 28G (suspension of asset allocation requirement: savers' interest test) for provision about circumstances in which the asset allocation requirement is suspended.

(1B) Regulations under Condition 1(b) or 2(b) of subsection (1A) may exempt any description of relevant Master Trust, for example those that are—

(a) designed to meet needs that arise in connection with a personal characteristic in respect of which any statutory provision prohibits discrimination, harassment or victimisation, or

(b) hybrid schemes.

(1C) Regulations may—

(a) permit the Regulatory Authority to determine that a relevant Master Trust is to be treated for a period ("the protected period") as meeting Condition 1 or Condition 2 of subsection (1A) for a period specified by the Regulatory Authority;

(b) specify circumstances in which a relevant Master Trust, which is treated as mentioned in paragraph (a) and meets prescribed conditions, is to be subject during a prescribed period (ending with the end of the protected period) to any requirements specified in the regulations; and provision under this paragraph may include provision corresponding to any provision that may be made under section 28A(10);

(c) make provision about the Regulatory Authority requiring the trustees or managers of a relevant Master Trust to give the Regulatory Authority 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.".

(5) After subsection (3) insert—

"(4) In this section—

"main scale default arrangement" is to be interpreted in accordance with section 28A(13);

"Master Trust scheme" has the same meaning as in the Pension Schemes Act (Northern Ireland) 2021 (see section 1(1) of that Act);

"relevant Master Trust" means a money purchase scheme that has its main administration in the United Kingdom and is an authorised Master Trust scheme (within the meaning of Part 1 of the Pension Schemes Act (Northern Ireland) 2021).".

(6) In section 25 (quality requirement: non-UK occupational pension schemes), for "18(b) or (c)" substitute "18(c)".

(7) Section 26 (quality requirement: UK personal pension schemes) is amended as follows.

(8) After subsection (7) insert—

"(7A) The fifth condition is that if the scheme is a group personal pension scheme of a prescribed description it must, unless subsection (7C) applies, hold an approval under section 28B in respect of a main scale default arrangement.

(7B) The sixth condition is that if the scheme is a group personal pension scheme of a prescribed description it must hold an approval under section 28C in respect of the asset allocation requirement.

See also section 28G (suspension of asset allocation requirement: savers' interest test) for provision about circumstances in which the asset allocation requirement is suspended.

(7C) This subsection applies if the group personal pension scheme—

(a) has previously been approved under section 28E (transition pathway relief) and is to be treated in accordance with regulations as if it had approval under section 28B,

(b) qualifies under section 28E for transition pathway relief, or

(c) qualifies under section 28F for new entrant pathway relief.

(7D) Regulations under subsection (7A) or (7B) may exempt any description of group personal pension schemes, for example those that are designed to meet needs that arise in connection with a personal characteristic in respect of which any statutory provision prohibits discrimination, harassment or victimisation.

(7E) Regulations may—

(a) permit the Regulatory Authority to determine that a group personal pension scheme is to be treated as meeting the fifth or sixth condition for a period (the "protected period") specified by the Regulatory Authority;

(b) specify circumstances in which a group personal pension scheme which is treated as mentioned in paragraph (a) and meets prescribed conditions is to be subject during a prescribed period (which ends with the end of the protected period) to any requirements specified in the regulations; and provision under this paragraph may include provision corresponding to any provision that may be made under section 28A(10);

(c) make provision about the Regulatory Authority requiring the provider of a group personal pension scheme to give the Regulatory Authority a plan showing how they propose to meet or continue to meet the scale requirement under section 28B or the conditions for approval under section 28C.".

(9) After subsection (9) insert—

"(10) In this section, "main scale default arrangement" is to be interpreted in accordance with section 28B(13).".

(10) In section 28 (certification that quality requirement or alternative requirement is satisfied), in subsection (3A) omit paragraphs (a) and (c).

(11) In section 28 (certification that quality requirement or alternative requirement is satisfied), in subsection (4) (definition of "relevant quality requirement")—

(a) in paragraph (a), at the end insert ", except so far as that quality requirement relates to Condition 1 or 2 in subsection (1A)";

(b) in paragraph (b), at the end insert ", except so far as that quality requirement relates to the fifth and sixth conditions";

(c) in paragraph (c), at the end insert ", except so far as those requirements relate to Condition 1 or 2 in section 20(1A)".

(12) After section 28 insert—

"MSDA approval: relevant Master Trusts

28A.—(1) For the purposes of Condition 1 of section 20(1A), the Regulatory Authority ("the Authority") may approve a relevant Master Trust ("the RMT") in respect of a main scale default arrangement if the Authority determines that—

(a) the RMT meets the scale requirement by reference to the main scale default arrangement, and

(b) any other prescribed conditions are met.

(2) The RMT meets the scale requirement by reference to a main scale default arrangement if the sum of the values mentioned in paragraphs (a) to (c) of subsection (4) is equal to or greater than the minimum amount.

(3) In this section "the minimum amount" means £25 billion.

(4) Subject to subsection (7), those values are—

(a) the total value of assets of the RMT which—

(i) represent accrued rights of members of that scheme,

(ii) are held subject to the main scale default arrangement, and

(iii) are managed under a common investment strategy;

(b) if one or more relevant Master Trusts are connected with the RMT, the total value of assets of those schemes that—

(i) represent accrued rights of members of those schemes,

(ii) are held subject to the main scale default arrangement, and

(iii) are managed under the investment strategy mentioned in paragraph (a)(iii);

(c) if one or more group personal pension schemes are connected with the RMT, the total value of assets of those schemes that—

(i) represent accrued rights of members of those schemes,

(ii) are held subject to the main scale default arrangement, and

(iii) are managed under the investment strategy mentioned in paragraph (a)(iii).

(5) A reference in subsection (4) to a relevant Master Trust or a group personal pension scheme being "connected" with the RMT is to a relevant Master Trust or a group personal pension scheme having a prescribed connection with the RMT.

(6) Regulations under subsection (5) may, for example, provide—

(a) 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

(b) 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.

(7) Regulations may make provision about amounts that are to be excluded or adjusted in calculating the total value under subsection (4)(a) to (c).

(8) Regulations may make provision about—

(a) how the satisfaction of criteria relevant to the meeting of the scale requirement is to be evidenced;

(b) what it means for assets of a pension scheme to be managed under a "common investment strategy" (including in particular provision defining that expression by reference to whether or how far the assets relating to each member of the scheme are allocated in the same proportion to the same investments).

(9) Regulations may make provision about how the value of assets is to be determined for the purposes of subsections (2) and (4).

(10) Regulations may make provision—

(a) as to a time limit within which the Authority must decide an application for approval;

(b) as to procedures in connection with approvals or where an approval has been given;

(c) about the withdrawal of approvals including conditions for, and procedures in connection with, withdrawals;

(d) for the Authority's decision on the application, or on a decision to withdraw approval, to be referred to the Upper Tribunal;

(e) for the Authority to maintain and publish a list of relevant Master Trusts that are approved under this section.

(11) Regulations under subsection (10)(c) may in particular make provision—

(a) about steps, including communications with a relevant Master Trust, that the Authority must take before deciding to withdraw an approval;

(b) setting a minimum period that must elapse between a notification that approval is to be withdrawn and the withdrawal of the approval;

(c) where the Authority has given notice to the trustees or managers of a relevant Master Trust that the approval (under this section) of that scheme is likely to be withdrawn and any other prescribed conditions are met, requiring the trustees or managers to—

(i) act in relation to the scheme as if its approval has been withdrawn, and

(ii) take steps for ensuring that persons (such as employers) who may be affected in the event of the relevant Master Trust's losing that approval are promptly informed if such a loss should occur;

(d) permitting the Authority to impose, on a person who fails to comply with a requirement under paragraph (c), a penalty determined in accordance with the regulations that does not exceed £100,000;

(e) providing for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty.

(12) Before making regulations under this section the Department must consult such persons as it considers appropriate.

(13) In this section "main scale default arrangement" means an arrangement—

(a) that is used for the purposes of one or more pension schemes, and

(b) subject to which assets of any one of those schemes must under the rules of the scheme be held, or may under those rules be held, if the member of the scheme to whom the assets relate does not make a choice as to the arrangement subject to which the assets are to be held.

MSDA approval: group personal pension scheme

28B.—(1) The Regulatory Authority ("the Authority") may, for the purposes of the condition in section 26(7A), approve a group personal pension scheme ("the GPP") in respect of a main scale default arrangement if the Authority determines that—

(a) the GPP meets the scale requirement by reference to the main scale default arrangement, and

(b) any other prescribed conditions are met.

(2) The GPP meets the scale requirement by reference to a main scale default arrangement if the sum of the values mentioned in paragraphs (a) to (c) of subsection (4) is equal to or greater than the minimum amount.

(3) In this section "the minimum amount" means £25 billion.

(4) Subject to subsections (5) and (6), those values are—

(a) the total value of assets of the GPP which—

(i) represent accrued rights of members of the GPP,

(ii) are held subject to the main scale default arrangement, and

(iii) are managed under a common investment strategy;

(b) if one or more group personal pension schemes are connected with the GPP, the total value of assets of those schemes that—

(i) represent accrued rights of members of those schemes,

(ii) are held subject to the main scale default arrangement, and

(iii) are managed under the investment strategy mentioned in paragraph (a)(iii);

(c) if one or more relevant Master Trusts are connected with the GPP, the total value of assets of those schemes that—

(i) represent accrued rights of members of those schemes,

(ii) are held subject to the main scale default arrangement, and

(iii) are managed under the investment strategy mentioned in paragraph (a)(iii).

(5) Regulations may make provision about amounts that are to be excluded or adjusted in calculating the total value under subsection (4)(a) to (c).

(6) Regulations may make provision about—

(a) how the satisfaction of criteria relevant to the meeting of the scale requirement is to be evidenced;

(b) what it means for assets of a pension scheme to be managed under a "common investment strategy" (including in particular provision defining that expression by reference to whether or how far the assets relating to each member of the scheme are allocated in the same proportion to the same investments).

(7) Regulations may make provision about how the value of assets is to be determined for the purposes of subsections (2) and (4).

(8) A reference in subsection (4) to a group personal pension scheme or a relevant Master Trust being "connected" with the GPP is to a group personal pension scheme or a relevant Master Trust having a prescribed connection with the GPP.

(9) Regulations under subsection (8) may, for example, provide—

(a) that a group personal pension scheme is connected with the GPP only if it has the same provider as the GPP, or

(b) 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.

(10) Regulations may make provision—

(a) as to a time limit within which the Authority must decide an application for approval;

(b) as to procedures in connection with approvals or where an approval has been given;

(c) about the withdrawal of an approval, including conditions for and procedures in connection with withdrawals;

(d) for the Authority's decision on the application, or on a decision to withdraw approval, to be referred to the Upper Tribunal;

(e) for the Authority to maintain and publish a list of group personal pension schemes that are approved under this section.

(11) Regulations under subsection (10)(c) may in particular make provision—

(a) about steps, including communications with a group personal pension scheme, that the Authority must take before deciding to withdraw an approval;

(b) setting a minimum period that must elapse between notification that approval is to be withdrawn and the withdrawal of the approval;

(c) where the Authority has given notice to the provider of the GPP that its approval is likely to be withdrawn and any other prescribed conditions are met, requiring the provider to—

(i) act in relation to the scheme as if its approval has been withdrawn, and

(ii) take steps for ensuring that persons (such as employers) who may be affected in the event of the GPP losing that approval are promptly informed if such a loss should occur;

(d) permitting the Authority to impose, on a person who fails to comply with a requirement under paragraph (c), a penalty determined in accordance with the regulations that does not exceed £100,000;

(e) providing for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty.

(12) Before making regulations under this section the Department must consult such persons as it considers appropriate.

(13) In this section "main scale default arrangement" means an arrangement—

(a) that is used for the purposes of one or more pension schemes, and

(b) subject to which assets of any one of those schemes must under the rules of the scheme be held, or may under those rules be held, if the member of the scheme to whom the assets relate does not make a choice as to the arrangement subject to which the assets are to be held.

Approvals in respect of asset allocation

28C.—(1) The Regulatory Authority ("the Authority") may approve a relevant Master Trust or a group personal pension scheme in respect of the asset allocation requirement only if the Authority determines that at least the prescribed percentage (by value) of the assets held in main default funds of the scheme are qualifying assets.

(2) Regulations under subsection (1) may prescribe a percentage by reference to—

(a) all of the assets of the scheme that are held in main default funds, or

(b) a prescribed description of the assets of the scheme that are so held.

(3) In this section "qualifying asset" means an asset of a prescribed description that is held in a main default fund of a relevant Master Trust or group personal pension scheme.

(4) A description of asset may be prescribed under subsection (3) only if it represents a direct or indirect holding in any of the following asset classes—

(a) private equity;

(b) venture capital;

(c) private credit;

(d) interests in land;

(e) infrastructure;

(f) unlisted equity securities not falling within paragraphs (a) to (e).

In this subsection "unlisted equity securities" means equity securities not listed on a recognised stock exchange within the meaning of the Income

Tax Acts (see section 1005 of the Income Tax Act 2007) (including equity securities admitted to trading that are not listed on such an exchange).

(5) Regulations under subsection (3) must secure that a description of asset is prescribed under that subsection in respect of each asset class mentioned in subsection (4)(a) to (f).

(6) A description prescribed under subsection (3) may, for example, relate to—

(a) whether an asset is located in the United Kingdom or elsewhere;

(b) the presence or absence of other prescribed factors linking an asset to economic activity in the United Kingdom.

(7) Regulations under this section may not have the effect of requiring, as a condition of a scheme's approval under subsection (1)—

(a) more than 10% (by value) of all of the assets of the scheme that are held in main default funds to be qualifying assets, or

(b) more than 5% (by value) of all of the assets so held to be of a UK-specific description.

(8) In subsection (7)(b) "UK-specific description" means a description framed by reference to whether an asset is located in the United Kingdom or meets any other condition linked to economic activity in the United Kingdom.

(9) For the purposes of this section assets of a relevant Master Trust or group personal pension scheme are held in "main default funds" if—

(a) the jobholders by or in respect of whom contributions have been made to the scheme have not (or predominantly have not) expressed a choice as to where the contributions are allocated, and

(b) the arrangements under which the assets are held meet any other conditions that may be prescribed.

(10) Regulations may make provision—

(a) about how the meeting of the asset allocation requirement is to be evidenced;

(b) requiring the trustees or managers of relevant Master Trusts or the providers of group personal pension schemes to have regard to any guidance issued by the Department about the effect of any regulations under this section.

(11) Regulations may make provision—

(a) as to a time limit within which the Authority must decide an application for approval;

(b) as to procedures in connection with approvals or where an approval has been given;

(c) about the period for which an approval has effect;

(d) about the withdrawal of an approval, including conditions for and procedures in connection with withdrawals;

(e) about the provision to the Authority of information required for the purposes of deciding applications (including any additional information the Authority may require in a particular case);

(f) requiring the Authority to report to the Department any information the Department may require relating to the allocation of assets by relevant Master Trusts or group personal pension schemes;

(g) for the Authority's decision on the application to be referred to the Upper Tribunal;

(h) for the Authority to maintain and publish—

(i) a list of relevant Master Trusts that are approved under this section, and

(ii) a list of group personal pension schemes that are approved under this section,

(or a single list of the pension schemes mentioned in sub-paragraphs (i) and (ii)).

(12) Regulations under subsection (11)(d) may in particular make provision—

(a) about steps, including communications with a relevant Master Trust or group personal pension scheme, that the Authority must take before deciding to withdraw an approval;

(b) setting a minimum period that must elapse between notification that approval is to be withdrawn and the withdrawal of the approval;

(c) where the Authority has given notice to the trustees or managers of a relevant Master Trust or the provider of a group personal pension scheme that its approval is likely to be withdrawn and any other prescribed conditions are met, requiring the trustees or managers or provider to—

(i) act in relation to the scheme as if its approval has been withdrawn, and

(ii) take steps for ensuring that persons (such as employers) who may be affected in the event of the scheme losing that approval are promptly informed if such a loss should occur;

(d) permitting the Authority to impose, on a person who fails to comply with a requirement under paragraph (c), a penalty determined in accordance with the regulations that does not exceed £100,000.

(13) The power to make regulations under subsection (1) may only be exercised once.

(14) The Department may not make regulations under subsection (1) before 1 January 2028.

(15) Provision under this section overrides any provision of the trust deed or rules of the scheme in question, so far as they are in conflict (and for that purpose, a provision of the trust deed or rules of the scheme is "in conflict" with provision under this section so far as the former does not

allow for the assets of the scheme to be managed in such a way as to meet the conditions for approval under this section).

Information

28D.—(1) Regulations may make provision about information that the trustees or managers of a relevant Master Trust or the provider of a group personal pension scheme must give to the Regulatory Authority about the allocation of assets of the relevant Master Trust or group personal pension scheme.

(2) The regulations may make provision about—

(a) the types of information that must be given;

(b) when it must be given;

(c) the form and manner in which it must be given.

Transition pathway relief

28E.—(1) The Regulatory Authority ("the Authority") may approve a relevant Master Trust as qualifying for transition pathway relief if the Authority determines that—

(a) the condition in subsection (2) is met, and

(b) any other prescribed conditions are met.

(2) The condition mentioned in subsection (1)(a) is that the Authority determines that the relevant Master Trust—

(a) would qualify for approval under section 28A (MSDA approval: relevant Master Trusts) if the amount specified in section 28A(3) were £10 billion, and

(b) has a credible plan in place for meeting the scale requirement within the meaning of section 28A(2).

(3) The Authority may approve a group personal pension scheme as qualifying for transition pathway relief if the Authority determines that—

(a) the condition in subsection (4) is met, and

(b) any other prescribed conditions are met.

(4) The condition mentioned in subsection (3)(a) is that the Authority determines that the group personal pension scheme—

(a) would qualify for approval under section 28B (MSDA approval: group personal pension schemes) if the amount specified in section 28B(3) were £10 billion, and

(b) has a credible plan in place for meeting the scale requirement within the meaning of section 28B(2).

(5) Regulations may require trustees or managers of relevant Master Trusts or providers of group personal pension schemes that are approved under this section to take prescribed steps, for example—

(a) to produce plans for increasing the scale of their schemes' holdings or to take other actions that may facilitate progress towards approval under section 28A or 28B, or

(b) in connection with governance and investment capability.

(6) Regulations must make provision about the criteria for making any determinations under subsection (1) or (3).

(7) Regulations may make provision of a kind mentioned in section 28A(10) or (11); and for this purpose a reference in those provisions—

(a) to an approval under section 28A is to be read as a reference to an approval under this section;

(b) to a relevant Master Trust is to be read as a reference to a relevant Master Trust or a group personal pension scheme;

(c) to the trustees or managers of a relevant Master Trust is to be read as a reference to the trustees or managers of a relevant Master Trust or the provider of a group personal pension scheme.

(8) Before making regulations under this section the Department must consult such persons as it considers appropriate.

(9) In this section "relevant Master Trust" has the same meaning as in section 20.

New entrant pathway relief

28F.—(1) A relevant Master Trust or group personal pension scheme qualifies for new entrant pathway relief for the purposes of Condition 1(e) of section 20(1A) or section 26(7C)(c) if the relevant Master Trust or group personal pension scheme is approved by the Regulatory Authority ("the Authority") under this section.

(2) The Authority may approve a relevant Master Trust or a group personal pension scheme under this section only if the Authority determines that—

(a) the scheme in question does not yet have any members,

(b) the scheme in question has strong potential to grow so as to meet the scale requirement under section 28A or 28B,

(c) the scheme in question has an innovative product design, and

(d) any other prescribed conditions are met.

(3) Regulations may make provision of a kind mentioned in section 28A(10) or (11); and for this purpose a reference in those provisions—

(a) to an approval under section 28A is to be read as a reference to an approval under this section;

(b) to a relevant Master Trust is to be read as a reference to a relevant Master Trust or a group personal pension scheme;

(c) to the trustees or managers of a relevant Master Trust is to be read as a reference to the trustees or managers of a relevant Master Trust or the provider of a group personal pension scheme.

(4) Regulations may make provision about the meaning of "strong potential to grow" and "innovative product design" (including how it can be demonstrated that a scheme has strong potential to grow or an innovative product design).

(5) Before making regulations under this section the Department must consult such persons as it considers appropriate.

Suspension of asset allocation requirement: savers' interest test

28G.—(1) Regulations must make provision for authorising the Regulatory Authority ("the Authority"), on an application by a relevant Master Trust or group personal pension scheme, to determine that the scheme in question is to be treated, for a period specified by the Authority, as if that scheme were exempted from the requirement for approval under section 28C.

(2) The Department must make regulations under subsection (1) so that they have effect whenever regulations under section 28C(1) or (2) have effect.

(3) Regulations under subsection (1)—

(a) may make provision about the form and content of an application, including about the evidence to be provided as part of an application;

(b) must make provision requiring an application to include a statement—

(i) that the applicant concludes that meeting the asset allocation requirement is likely not to be in the best interests of members of the scheme, and

(ii) setting out the basis on which the applicant reached the conclusion;

(c) must make provision requiring the Authority to determine that the applicant is to be treated as mentioned in subsection (1) in cases where—

(i) the application complies with the requirements of regulations made under subsection (1), and

(ii) the Authority is of the view that it is reasonable for the applicant to have reached the conclusion that meeting the asset allocation requirement is likely not to be in the best interests of members of the scheme;

(d) may make provision about the basis on which the Authority may or must form such a view, including about the evidence which the Authority may or must take into account;

(e) may make provision as to the process for making a determination, including as to—

(i) the level of detail of enquiry required in different cases;

(ii) a time limit within which the Authority must decide an application;

(iii) procedures in connection with applications;

(f) must require the Authority to provide reasons for any determination not to approve an application;

(g) must provide for the Authority's determination on an application to be referred to the Upper Tribunal.

Risk notices

28H.—(1) The Regulatory Authority ("the Authority") may give a risk notice to the trustees or managers of a relevant Master Trust if the Authority considers that—

(a) there is an issue of concern in relation to the relevant Master Trust, and

(b) the relevant Master Trust will, or is likely to, cease to meet the conditions for approval under section 28A or 28C if the issue is not resolved.

(2) A "risk notice" is a notice that requires the trustees or managers of a relevant Master Trust to submit to the Authority a plan (a "resolution plan") setting out proposals for resolving the issue of concern.

(3) A risk notice must—

(a) identify the issue of concern;

(b) specify the date by which the resolution plan is to be submitted.

(4) If the Authority is not satisfied that the proposals in a resolution plan are likely to be adequate to resolve the issue of concern, the Authority may give a further notice to the trustees or managers requiring them to submit a revised plan by a date specified in the notice.

(5) The trustees or managers must implement the proposals in a resolution plan if the Authority—

(a) is satisfied that the proposals are likely to be adequate to resolve the issue of concern, and

(b) notifies the trustees or managers accordingly.

(6) The Authority may direct the trustees or managers to comply with the requirement imposed by subsection (5).

(7) Where the trustees or managers are required by subsection (5) to implement the proposals in a resolution plan, they must—

(a) submit to the Authority, before the end of a period specified in regulations, a report setting out what progress they are making in implementing the proposals (a "progress report");

(b) submit further progress reports to the Authority at intervals specified by the Authority.

(8) Resolution plans and progress reports must be provided in the manner and form specified by the Authority.

(9) A reference to a resolution plan in subsections (4) to (8) includes a reference to a resolution plan as revised under subsection (4).

(10) Regulations may—

(a) specify information that a risk notice must contain;

(b) provide that the date referred to in subsection (3)(b) or (4) must fall before the end of a period specified in the regulations.

(11) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to a trustee or manager of a relevant Master Trust who fails to comply with—

(a) a notice under subsection (1) or (4),

(b) a direction under subsection (6), or

(c) a requirement imposed by subsection (7).

Penalties

28I.—(1) Regulations may make provision about the imposition by the Regulatory Authority of a penalty on the trustees or managers of a relevant Master Trust or the provider of a group personal pension scheme where the scheme—

(a) fails to meet the condition in section 20(1A) by virtue of not being approved under section 28A or 28C, and

(b) accepts contributions from an employer in relation to a jobholder on the basis that it is an automatic enrolment scheme in relation to that jobholder.

(2) Regulations may make provision about the imposition by the Regulatory Authority of a penalty on the provider of a group personal pension scheme where the scheme—

(a) fails to meet the condition in section 26(7A) or (7B), and

(b) accepts contributions from an employer in relation to a jobholder on the basis that it is an automatic enrolment scheme in relation to that jobholder.

(3) The regulations must provide—

(a) that a penalty must not exceed £100,000 in relation to each employer from which contributions are accepted as mentioned in subsection (1)(b) or (2)(b), and

(b) that there is a right of appeal against the imposition of the penalty.

Enforcement by the Financial Conduct Authority

28J.—(1) The Department may make regulations to enable the Financial Conduct Authority to take action (in addition to any action it may otherwise take under the Financial Services and Markets Act 2000) for monitoring and enforcing compliance of any FCA-regulated person with any provision of or under this Chapter.

(2) The regulations may apply, or make provision corresponding to—

(a) provision made by or under this Part in relation to the Regulatory Authority, or

(b) any provision of the Financial Services and Markets Act 2000,

with or without modification.

(3) Regulations under this section may not be made without the agreement of the Treasury.

(4) In this section, "FCA-regulated person" means an authorised person (within the meaning of the Financial Services and Markets Act 2000).

Regulations about quality requirements

28K. In making regulations under section 20(1A) or (1C), 26(7A), 28A, 28B, 28E or 28F, the Department must have regard to the importance of—

(a) innovation in the design and operation of relevant Master Trusts and group personal pension schemes;

(b) competition among relevant Master Trusts and group personal pension schemes;

(c) improving outcomes for members of relevant Master Trusts and group personal pension schemes;

(d) relevant Master Trusts and group personal pension schemes achieving an appropriate scale;

(e) relevant Master Trusts and group personal pension schemes having effective governance.".

(13) In section 77 (interpretation of Part)—

(a) the existing words become subsection (1);

(b) in that subsection, at the appropriate places insert—

""group personal pension scheme" means a personal pension scheme which is available, or intended to be available, to employees of the same employer or of employers within a group, but does not include—

(a) a stakeholder pension scheme (as defined in Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999), or

(b) any pension scheme that requires all its members to make a choice as to how their contributions are invested;

"Regulatory Authority" has the meaning given by regulations under subsection (2);

"relevant Master Trust" has the meaning given by section 20(4);";

(c) after that subsection insert—

"(2) The Department may by regulations define "Regulatory Authority" for the purposes of this Part.".

(14) In section 112 (orders and regulations), in subsection (4)(a)—

(a) after "17(1)(c)," insert "20, 26(7A), (7B), (7C) or (7E),";

(b) after "28," insert "28A, 28B, 28C (other than subsection (11)(f)), 28E, 28F, 28G, 28I, 28J,".

(15) The following provisions of the Pensions (No. 2) Act (Northern Ireland) 2008 (which relate to transition pathway relief) are repealed at the end of the period of 5 years beginning with the day on which the provisions mentioned in paragraphs (a) and (b) come into operation—

(a) paragraph (d) of Condition 1 in section 20(1A);

(b) section 26(7C)(b);

(c) section 28E;

(d) in sections 28K and 112(4)(a), the references to section 28E.

(16) The following provisions are repealed at the end of 2035—

(a) in Article 85(6)(da) of the Pensions (Northern Ireland) Order 2005, the words "and the asset allocation requirement";

(b) the relevant asset allocation provisions of the Pensions (No. 2) Act (Northern Ireland) 2008.

(17) For the purposes of subsection (16), the "relevant asset allocation provisions" of the Pensions (No. 2) Act (Northern Ireland) 2008 are the following—

(a) in section 20(1A) (asset allocation requirement: Master Trusts)—

(i) in the opening words, the words "and Condition 2";

(ii) Condition 2;

(b) in section 20(1B) (exemptions), the words "or 2(b)";

(c) in section 20(1C) (protected period)—

(i) in paragraph (a), the words "or Condition 2";

(ii) in paragraph (c), the words "or the conditions for approval under section 28C";

(d) in section 26 (quality requirement: UK personal pension schemes)—

(i) subsection (7B);

(ii) in subsection (7D), the words "or (7B)";

(iii) in subsection (7E)(a), the words "or sixth";

(iv) in subsection (7E)(c), the words "or the conditions for approval under section 28C";

(e) in section 28 (certification that quality requirement or alternative requirement is satisfied)—

(i) in subsection (4)(a), the words "or 2";

(ii) in subsection (4)(b), the words "and sixth";

(iii) in subsection (4)(c), the words "or 2";

(f) section 28C (approvals in respect of asset allocation);

(g) section 28G (suspension of asset allocation requirement: savers' interest test);

(h) in section 28H (risk notices), in subsection (1)(b), the words "or 28C";

(i) in section 28I (penalties)—

(i) in subsection (1)(a), the words "or 28C";

(ii) in subsection (2)(a), the words "or (7B)";

(j) in section 112(4)(a) (orders and regulations)—

(i) the word "(7B)";

(ii) the words "28C (other than subsection (11)(f))";

(iii) the word "28G".

(18) In consequence of the repeals under subsection (16), at the end of 2035—

(a) in Article 68(2)(dza) of the Pensions (Northern Ireland) Order 2005 (inspection of premises), for "28G of the Pensions (No. 2) Act (Northern Ireland) 2008 (scale and asset allocation)" substitute "28F of the Pensions (No. 2) Act (Northern Ireland) 2008 (scale)";

(b) in section 28(4)(b) of the Pensions (No. 2) Act (Northern Ireland) 2008 (certification that quality requirement or alternative requirement is satisfied), for "conditions" substitute "condition".

(19) The Department may by regulations make transitional or saving provision in connection with any repeal or amendment under subsection (16) or (18).

(20) If this section is repealed under section 96(6) (repeal where asset allocation requirement uncommenced) in respect of the insertion of the provisions mentioned in that subsection, the Department may by regulations amend this section, section 32 or the Schedule in consequence of that repeal.

(21) Regulations under subsection (19) or (20) are subject to negative resolution.

Amendments related to section 31

32.—(1) Part 1 of the Pension Schemes Act (Northern Ireland) 2021 is amended as follows.

(2) In section 5 (decision on application), in subsection (3)—

(a) omit the "and" before paragraph (e);

(b) after paragraph (e) insert—

"(f) that it has sufficient investment capability (see section 12A), and

(g) (in the case of an applicant that has its main administration in the United Kingdom) that the scheme meets Condition 1 of section 20(1A) (scale requirement) of the Pensions (No. 2) Act (Northern Ireland) 2008.".

(3) After section 12 insert—

"Investment capability

12A.—(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that a Master Trust scheme (that has its main administration in the United Kingdom) has sufficient investment capability (see section 5(3)(f)).

(2) In order to be satisfied that the Master Trust scheme has sufficient investment capability the Pensions Regulator must be satisfied—

(a) that appropriate systems are in place for managing the investment strategy and monitoring outcomes,

(b) that the scheme has appropriate systems for delivering effective governance, and

(c) that there are appropriate strategies for recruiting and retaining expert staff.

(3) The Department may by regulations—

(a) make provision about the meaning of terms used in subsection (2);

(b) specify further things that the Pensions Regulator must be satisfied of in deciding whether a Master Trust scheme has sufficient investment capability.

(4) The first regulations made under this section are subject to the confirmatory procedure.

(5) Any subsequent regulations under this section are subject to negative resolution.

Scale requirement

12B.—(1) The Department may by regulations make provision about how the Pensions Regulator is to decide whether it is satisfied that a Master Trust scheme that has its main administration in the United Kingdom meets Condition 1 in section 20(1A) (scale requirement) of the Pensions (No. 2) Act (Northern Ireland) 2008.

(2) The regulations may, among other things, specify matters which the Pensions Regulator must take into account in making its assessment.

(3) The first regulations under this section are subject to the confirmatory procedure.

(4) Any subsequent regulations under this section are subject to negative resolution.".

CHAPTER 4

DEFAULT ARRANGEMENTS

Regulations restricting creation of new non-scale default arrangements

33.—(1) The Department may make regulations for the purpose of restricting the ability of the provider of a pension scheme to begin operating a non-scale default arrangement.

(2) The regulations may, in particular, make provision—

(a) prohibiting the provider of a pension scheme from beginning to operate a non-scale default arrangement unless the arrangement is approved by the appropriate regulator;

(b) about the criteria which the appropriate regulator must apply in deciding whether to approve a non-scale default arrangement;

(c) about the conditions which the appropriate regulator may or must attach to approval;

(d) about the ongoing requirements to which the provider of a pension scheme is to be subject in relation to a non-scale default arrangement approved under the regulations;

(e) where assets of a pension scheme are held subject to a non-scale default arrangement that is being operated in breach of the regulations, requiring the provider of the pension scheme in question to ensure that the assets are held subject to a different arrangement of a description specified in the regulations;

(f) conferring functions on the appropriate regulator, including functions involving the exercise of a discretion;

(g) for ensuring compliance with the regulations, including provision for the imposition of civil penalties not exceeding £100,000;

(h) for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of anything done under the regulations.

(3) If regulations under this section contain provision that applies to FCA-regulated pension schemes, the regulations may not be made without the agreement of the Treasury.

(4) Regulations under this section are subject to the confirmatory procedure.

Regulations about consolidation of non-scale default arrangements

34.—(1) The Department may make regulations about the consolidation of non-scale default arrangements into approved main scale default arrangements.

(2) The regulations may, in particular, make provision—

(a) requiring the provider of a pension scheme, subject to any exemptions specified in the regulations, to consolidate a non-scale default arrangement operated by it into an approved main scale default arrangement operated by it;

(b) requiring the provider of a pension scheme to prepare, and provide the appropriate regulator with, an action plan about how and when a non-scale default arrangement operated by it is to be so consolidated;

(c) conferring functions on the appropriate regulator, including functions involving the exercise of a discretion;

(d) for ensuring compliance with the regulations, including provision for the imposition of civil penalties not exceeding £100,000;

(e) for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of a decision made under the regulations.

(3) If regulations under this section contain provision that applies to FCA-regulated pension schemes, the regulations may not be made without the agreement of the Treasury.

(4) Regulations under this section are subject to the confirmatory procedure.

Regulations about default arrangements

35. In making regulations under section 33 or 34, the Department must have regard to the importance of—

(a) innovation in the design and operation of pension schemes;

(b) competition among providers of pension schemes;

(c) improving outcomes for members of pension schemes;

(d) pension schemes having effective governance.

Crown application

36.—(1) This Chapter applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.

(2) Accordingly, references in this Chapter to a person in their capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(3) This Chapter applies to persons employed by or under the Crown as it applies to persons employed by a private person.

Interpretation of Chapter

37.—(1) In this Chapter—

"the appropriate regulator", in relation to a pension scheme, means—

(a) in relation to an FCA-regulated pension scheme, the FCA;

(b) in relation to any other pension scheme, the Pensions Regulator;

"approved main scale default arrangement", in relation to a pension scheme, means a main scale default arrangement in respect of which the pension scheme is approved under section 28A or 28B of the Pensions (No. 2) Act (Northern Ireland) 2008;

"consolidating" a non-scale default arrangement into an approved main scale default arrangement means ensuring that any assets held subject to the non-scale default arrangement are instead held subject to the approved main scale default arrangement;

"the FCA" means the Financial Conduct Authority;

"FCA-regulated", in relation to a pension scheme, has the meaning given in subsection (2);

"main scale default arrangement", in relation to a pension scheme, has the same meaning as in section 28A and 28B of the Pensions (No. 2) Act (Northern Ireland) 2008;

"money purchase benefits" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 176 of that Act);

"non-scale default arrangement", in relation to a pension scheme, means an arrangement—

(a) which is not an approved main scale default arrangement, and

(b) subject to which assets of the scheme must under the rules of the scheme be held, or may under those rules be held, if the member of the scheme to whom the assets relate does not make a choice as to the arrangement subject to which the assets are to be held;

"operate", in relation to a default arrangement, has the meaning given in subsection (3);

"pension scheme" has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993;

"the provider" of a pension scheme means—

(a) in relation to an FCA-regulated pension scheme, the person mentioned in subsection (2)(b);

(b) in any other case, the trustees or managers;

"the trustees or managers", in relation to a pension scheme, means—

(a) in the case of a scheme established under a trust, the trustees of the scheme, and

(b) in any other case, the persons responsible for the management of the scheme.

(2) A pension scheme is "FCA-regulated" if the operation of the scheme—

(a) is carried on in such a way as to be a regulated activity for the purposes of the Financial Services and Markets Act 2000, and

(b) is carried on in the United Kingdom by a person who is in relation to that activity an authorised person under section 19 of that Act.

(3) The provider of a pension scheme "operates" a non-scale default arrangement or main scale default arrangement if any assets held for the purposes of the scheme are held subject to the non-scale default arrangement or main scale default arrangement.

Chapter 5

Guided Retirement

Default pension benefit solutions

38.—(1) Subject to section 39(1), the trustees or managers of a relevant scheme must—

(a) design, and make available to each eligible member of the scheme, one or more default pension benefit solutions;

(b) at least in such circumstances or at such times or intervals as may be prescribed, review the design (and if appropriate the number) of the default pension benefit solutions.

(2) In this Chapter "pension benefit solution", in relation to a pension scheme, means a contractual or other arrangement for making pension payments in respect of members' accrued rights.

(3) In this Chapter "default pension benefit solution", in relation to a relevant scheme, means a pension benefit solution which—

(a) is designed for delivering money purchase benefits under the scheme to—

(i) the eligible members of the scheme generally, or

(ii) a subset of those eligible members,

(b) is designed to provide a regular income for the eligible members concerned in their retirement (whether or not together with other benefits),

(c) is for the time being designated by the trustees or managers of the scheme as the pension benefit solution under which—

(i) the eligible members of the scheme generally, or

(ii) a subset of those eligible members,

will receive pension payments unless they choose to receive pension payments under a different pension benefit solution, and

(d) meets any other conditions that may be prescribed.

(4) The trustees or managers of a relevant scheme must, in determining what default pension benefit solutions the scheme should make available (generally or to subsets of eligible members), take account of—

(a) the needs and interests of—

(i) the scheme's membership as a whole, and

(ii) any subset of the scheme's membership that the trustees or managers consider appropriate;

(b) the circumstances of different eligible members of the scheme (for example the normal pension ages of such members or the value or expected value of their money purchase benefits under the scheme);

(c) the possibility that a member may already have received some of their benefits (for example as a lump sum) before deciding to make use of a default pension benefit solution;

(d) such other factors as may be prescribed.

(5) Regulations may make provision about how trustees or managers of a scheme are to assess the needs and interests of the scheme's membership for the purposes of subsection (4)(a).

(6) Regulations may—

(a) specify descriptions of eligible members in relation to which subsection (3) is to have effect with the omission of paragraph (b) of that subsection;

(b) make provision about the meaning for the purposes of subsection (3)(b) of—

(i) "designed to provide a regular income";

(ii) "retirement".

(7) In this Chapter—

"eligible member", in relation to a relevant scheme, means any member who is accruing, or has an actual or prospective right to, benefits falling within paragraph (a) of the definition of "money purchase benefits" in

section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 and is not of a description excepted by regulations;

"relevant scheme" means an occupational pension scheme which—

(a) provides benefits falling within paragraph (a) of the definition of "money purchase benefits" in section 176(1) of the Pension Schemes (Northern Ireland) Act 1993,

(b) is a registered pension scheme, and

(c) is not of a description excepted by regulations.

(8) Regulations under this section—

(a) are subject to negative resolution if they are made under subsection (1)(b) or (6)(a);

(b) otherwise, are subject to the confirmatory procedure.

Transferable members

39.—(1) The trustees or managers of a relevant scheme ("the principal scheme") are not required to comply with section 38(1) in relation to eligible members of the scheme (whether comprising the members of the scheme generally or a subset of those members) in relation to whom the first or second condition is met; and such members are referred to in this Chapter as "transferable members".

(2) The first condition is that the trustees or managers of the principal scheme have determined that it is not reasonably practicable for them to design and make available to the members concerned default pension benefit solutions.

(3) The second condition is that the trustees or managers of the principal scheme have determined that a qualifying pension benefit solution of a qualifying scheme (other than the principal scheme) will provide a better outcome for the members concerned than any default pension benefit solution that the trustees or managers of the principal scheme could design and make available to them.

(4) Where the principal scheme has transferable members, the trustees or managers must take the steps set out in subsection (5) in respect of them.

(5) The steps mentioned in subsection (4) are to—

(a) identify a qualifying scheme (the "receiving scheme") that is able to and agrees to—

(i) receive a transfer in respect of the accrued rights of the transferable member (a "relevant transfer"), and

(ii) make a qualifying pension benefit solution available to the transferable member;

(b) at such times or in such circumstances as may be prescribed, enter into arrangements ("transfer arrangements") with the receiving scheme with a view to effecting a relevant transfer to that scheme;

(c) take any other prescribed steps.

(6) In carrying out the step in subsection (5)(a), the trustees or managers of the principal scheme must have regard to the matters mentioned in section 38(4) (and

for that purpose references in those paragraphs to "the scheme" are to the principal scheme).

(7) Section 38(5) applies for the purposes of subsection (6) as it applies for the purposes of section 38(4).

(8) The trustees or managers of the principal scheme must, at least in such circumstances or at such times or intervals as may be prescribed, review the suitability of any qualifying pension benefit solution in respect of which they have identified a qualifying scheme as mentioned in subsection (5)(a).

(9) In this Chapter, "qualifying pension benefit solution", in relation to a qualifying scheme, means a pension benefit solution designed and maintained by the trustees or managers of the scheme that—

(a) is designed for delivering money purchase benefits under that scheme to—

(i) the members of the scheme generally, or

(ii) a subset of those members,

(b) is designed to provide a regular income for the members concerned in their retirement (whether or not together with other benefits), and

(c) meets any other conditions that may be prescribed.

(10) Nothing in this Chapter authorises any transfer in respect of a person's accrued rights under a relevant scheme without that person's consent.

(11) In this section "qualifying scheme" means—

(a) an occupational pension scheme, or

(b) a personal pension scheme,

that is a registered scheme and meets any prescribed conditions.

(12) If a transferable member accepts in writing a proposal of the principal scheme for the transferable member's accrued rights to be transferred to the receiving scheme—

(a) the trustees or managers of the principal scheme must communicate that proposal to the receiving scheme, and

(b) the proposal is to be treated as requiring the receiving scheme to enrol the transferable member as a member of the receiving scheme and use the cash equivalent to provide rights for the member under that scheme.

(13) Regulations may make provision about the conditions in subsections (2) and (3), including about the basis on which the determinations mentioned in those subsections are to be made.

(14) Regulations may require a pension scheme of a prescribed description to agree to receive a transfer in respect of the accrued rights of a transferable member where—

(a) the principal scheme has been unable, having used reasonable endeavours, to identify a qualifying scheme that is able and willing to do so, and

(b) any other prescribed conditions are met.

(15) A requirement under subsection (14) may only be imposed on a pension scheme that is one or both of the following—

(a) a Master Trust scheme within the meaning of the Pension Schemes Act (Northern Ireland) 2021;

(b) a consolidator scheme within the meaning of Chapter 2 of this Part (consolidation of small dormant pension pots).

(16) Regulations may prohibit or limit the charging of fees in respect of transfers made under transfer arrangements.

(17) Regulations may provide for the manner in which cash equivalents are to be calculated and verified.

(18) Regulations under subsection (8), (16) or (17) are subject to negative resolution; and other regulations under this section are subject to the confirmatory procedure.

Provision and gathering of information

40.—(1) Where only one pension benefit solution is available to the members of a relevant scheme, the trustees or managers must ensure that each eligible member of the scheme is given at a prescribed time a communication which—

(a) describes the pension benefit solution, and

(b) sets out the trustees' or managers' opinion as to what might be the circumstances (in terms of age, pension savings etc.) of a person for whom the pension benefit solution is suitable.

(2) Where more than one pension benefit solution is available to the eligible members of a relevant scheme, the trustees or managers must ensure that, at a prescribed time, each eligible member of the scheme is given a communication which—

(a) describes the default pension benefit solution or qualifying pension benefit solution that the trustees or managers consider to be the most appropriate to the member ("the specified solution"), and

(b) sets out the trustees' or managers' opinion as to what might be the circumstances (in terms of age, pension savings etc.) of a person for whom the specified solution is suitable.

(3) Regulations may make provision about how a pension benefit solution is to be presented to a member when the member applies to receive benefits.

(4) The trustees or managers of a relevant scheme must ensure that each eligible member of the scheme is given at prescribed times or intervals—

(a) information about basic features of the member's pension, including that it has—

(i) an accumulation phase, and

(ii) a decumulation phase;

(b) general information about the availability to the member of a default pension benefit solution or qualifying pension benefit solution and an explanation that such a solution is designed to provide a regular income during retirement.

(5) Regulations may require the trustees or managers of a relevant scheme to communicate to each eligible member at prescribed times or intervals—

(a) information about the pension benefit solutions available to the eligible members;

(b) general information about other options that may be available to the member for receiving benefits in respect of their contributions;

(c) information describing a particular pension benefit solution that the trustees or managers consider to be suitable for the eligible member in question;

(d) where information within paragraph (c) is included in a communication, the trustees' or managers' opinion as to what might be the circumstances (in terms of age, pension savings etc.) of a person for whom the pension benefit solution is suitable;

(e) any general information prescribed for the purpose of assisting eligible members in deciding how to receive their pension benefits.

(6) Communications made under or by virtue of any of subsections (1) to (5) must be in clear and plain language.

(7) The trustees or managers of a relevant scheme may request from eligible members of the scheme any information the trustees or managers consider reasonably necessary for the purpose of—

(a) designing or reviewing, or in the case of transferable members identifying, pension benefit solutions;

(b) determining what pension benefit solution may be appropriate for the member, including what rate of decumulation may be appropriate;

which may for example include information about the member's financial circumstances or plans for retirement.

(8) Regulations may require the trustees or managers of relevant schemes to request from eligible members any information the trustees or managers consider appropriate for the purposes specified in subsection (7).

(9) In exercising their functions under subsection (7) trustees and managers must comply with any requirements that may be prescribed.

(10) Regulations may make provision about the format of any communications authorised or required to be made under this section.

(11) Before making regulations under this section the Department must consult any persons it thinks appropriate.

(12) Regulations under this section are subject to negative resolution.

Information etc. in connection with selection of benefit solution

41.—(1) Regulations may require trustees or managers of a relevant scheme to provide or make available to eligible members, at prescribed times or intervals, information expressed in clear and plain language which would or may assist in—

(a) the selection of a pension benefit solution, or

(b) decisions that may need to be made with respect to a pension benefit solution.

(2) Regulations may require that information provided or made available to a member by virtue of subsection (1) must, as far as possible, be based on information about the member's circumstances.

(3) Regulations may require trustees or managers of a relevant scheme to—

(a) monitor the rate of decumulation under pension benefit solutions used by members, and

(b) inform the member concerned if the trustees or managers consider that the rate of decumulation should be reviewed.

(4) Regulations under this section are subject to the confirmatory procedure.

Pension benefits strategy

42.—(1) The trustees or managers of a relevant scheme must determine, and from time to time review and if necessary revise, a strategy (a "pension benefits strategy") for ensuring that the trustees or managers—

(a) identify and carry out the steps they need to take for the purpose of understanding the requirements of eligible members of the scheme with regard to pension benefit solutions;

(b) design, or in the case of transferable members identify, pension benefit solutions that take account of those needs;

(c) communicate effectively with eligible members of the scheme with regard to pension benefit solutions and comply with any regulations under section 41.

(2) The trustees or managers must publish the strategy and ensure that a copy of it is provided on request to—

(a) the Pensions Regulator;

(b) any member of the scheme.

(3) Regulations may—

(a) specify any objectives, principles or matters the trustees or managers must take into account in determining or revising a strategy;

(b) make provision about the level of detail required in a pension benefits strategy;

(c) authorise the Department to—

(i) determine the format in which a benefits strategy is to be set out, or

(ii) delegate that function to the Pensions Regulator;

(d) make provision as to the period within which a pension benefits strategy must be determined;

(e) specify the intervals at which the strategy must be reviewed;

(f) require the trustees or managers of relevant schemes—

(i) in determining or revising a strategy, to take account of any guidance issued by the Pensions Regulator;

(ii) to provide in the strategy evidence of how they have taken account of any matters specified by virtue of subsection (3)(a).

(4) Regulations may require the trustees or managers of a relevant scheme to publish, alongside a pension benefits strategy (or revised pension benefits strategy), prescribed information or evidence as to whether and how they have complied with the requirements imposed by virtue of this Chapter.

(5) Regulations under this section—

(a) are subject to the confirmatory procedure if they contain provision made under subsection (3)(a);

(b) otherwise are subject to negative resolution.

Enforcement and compliance

43.—(1) Regulations may make provision with a view to ensuring the compliance of any person with any provision of or under this Chapter.

(2) The regulations may in particular—

(a) provide for the Pensions Regulator to issue a notice (a "compliance notice") to a person with a view to ensuring the person's compliance with a provision of or under this Chapter;

(b) provide for the Pensions Regulator to issue a notice (a "third party compliance notice") to a person with a view to ensuring another person's compliance with a provision of or under this Chapter;

(c) provide for the Pensions Regulator to issue a notice (a "penalty notice") imposing a penalty on a person where the person—

(i) has failed to comply with a compliance notice or third party compliance notice, or

(ii) has contravened a provision of or under this Chapter;

(d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;

(e) confer other functions on the Pensions Regulator.

(3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

(4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

(a) £10,000, in the case of an individual, and

(b) £100,000, in any other case.

(5) Any penalty under the regulations is recoverable by the Pensions Regulator as if it were payable under an order of a county court.

(6) Where action is taken under subsection (5) for the recovery of a penalty, the penalty is to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

(7) The Pensions Regulator must pay into the Consolidated Fund any penalty recovered under this section.

(8) In Article 7 of the Pensions (Northern Ireland) Order 1995 (appointment of trustees), in paragraph (3)—

(a) omit the "or" at the end of sub-paragraph (c);

(b) after sub-paragraph (c) insert—

"(ca) to secure compliance with the duties of trustees under Chapter 5 of Part 2 of the Pension Schemes Act (Northern Ireland) 2027, or".

(9) Regulations under this section are subject to the confirmatory procedure.

Crown application

44.—(1) This Chapter applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.

(2) Accordingly, references in this Chapter to a person in their capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(3) This Chapter applies to persons employed by or under the Crown as it applies to persons employed by a private person.

Interpretation of Chapter

45. In this Chapter—

"default pension benefit solution" has the meaning given by section 38(3);

"eligible member" has the meaning given by section 38(7);

"money purchase benefits" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 176(1) of that Act);

"occupational pension scheme" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 1(1) of that Act);

"pension benefit solution" has the meaning given by section 38(2);

"pension scheme" has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993;

"personal pension scheme" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 1(1) of that Act);

"prescribed" means prescribed by regulations;

"principal scheme" is to be interpreted in accordance with section 39(1);

"qualifying pension benefit solution" has the meaning given by section 39(9);

"registered pension scheme" has the meaning given in Part 4 of the Finance Act 2004 (see section 150(2) of that Part of that Act);

"regulations" means regulations made by the Department;

"relevant scheme" has the meaning given by section 38(7);

"transferable member" is to be interpreted in accordance with section 39(1);

"trustees or managers", in relation to a pension scheme, means—

(a) where the scheme is established under a trust, the trustees of the scheme;

(b) in any other case, the managers of the scheme.

PART 3

SUPERFUNDS

CHAPTER 1

INTRODUCTORY

Overview

46.—(1) This Part—

(a) contains a regulatory framework for superfunds, and

(b) prohibits superfund transfers except where made in accordance with that framework.

(2) This Chapter defines key concepts such as "superfund scheme", "superfund", "superfund transfer" and "capital buffer".

(3) Chapter 2 allows for authorisation of superfunds by the Regulator, which is an initial step that must be taken before a scheme is eligible to receive superfund transfers.

(4) Chapter 3 requires the Regulator's approval for individual superfund transfers and sets out the criteria for granting approval.

(5) Chapter 4 sets out requirements that superfunds must meet on an ongoing basis once they have received a superfund transfer.

(6) Chapter 5 contains special procedures which apply if an "event of concern" (such as a superfund falling into financial difficulties or breaching regulatory requirements) takes place.

(7) Chapter 6 makes provision about interpretation of this Part and confers power to extend this Part to other similar structures.

Key concepts

47.—(1) "Superfund scheme" means a trust-based occupational pension scheme—

(a) that has received a transfer of defined-benefit liabilities from another trust-based occupational pension scheme,

(b) that is supported by a capital buffer, and

(c) that is not supported by a substantive employer covenant,

or a trust-based occupational pension scheme that is managed or administered with a view to its becoming such a scheme.

(2) 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—

(a) must be held by a person in connection with the scheme, and

(b) must, in specified circumstances, be made available to the trustees for the purpose of satisfying liabilities of the scheme.

(3) "Capital buffer", in relation to a trust-based occupational pension scheme, means assets that are the subject of a contract or other arrangement of the kind described in subsection (2) in relation to the scheme.

(4) A trust-based occupational pension scheme is "not supported by a substantive employer covenant" if, based on the employer's financial position, there is no realistic prospect of the employer being able to provide the trustees with material financial support for the purpose of satisfying liabilities of the scheme.

For that purpose the employer's "financial position" means its financial position ignoring—

(a) any capital buffer, and

(b) any financial support which it may obtain from another person but to which it is not entitled.

(5) "Superfund", in relation to a superfund scheme, means the scheme together with—

(a) any capital buffer, and

(b) any arrangements in place for the management and administration of the scheme or any capital buffer.

(6) "Superfund transfer" means a transfer of defined-benefit liabilities from a trust-based occupational pension scheme (whether or not itself a superfund scheme) to a superfund scheme.

Schemes divided into sections

48.—(1) This section applies for the purposes of this Part (unless the context otherwise requires).

(2) Where a trust-based occupational pension scheme includes two or more sections—

(a) each section is treated as a separate scheme,

(b) the members of the scheme that are allocated to each section are treated as the members of that separate scheme,

(c) the assets and liabilities of the scheme that are allocated to each section are treated as the assets and liabilities of that separate scheme, and

(d) in the case of a superfund scheme, the assets of the capital buffer that are allocated to each section are treated as the capital buffer in relation to that separate scheme.

(3) Accordingly, in the case of a superfund scheme, any of the following is treated as a superfund transfer—

(a) the reallocation of members between sections;

(b) the combination of two or more sections;

(c) the division of one section into two or more sections.

(4) A "section" of a trust-based occupational pension scheme means arrangements—

(a) which have effect under the rules of the scheme (including, in the case of a superfund scheme, the capital buffer arrangement), and

(b) under which particular assets of the scheme (and, in the case of a superfund scheme, the capital buffer) may only be used to satisfy the scheme's liabilities to or in respect of members of the scheme of a particular description,

and those particular assets, liabilities and members are "allocated" to the section in question.

CHAPTER 2

AUTHORISATION OF SUPERFUNDS

Prohibition of unauthorised superfund activity

49.—(1) Where a pension scheme is not part of an authorised superfund, a person may not—

(a) promote the scheme (generally or to a particular person) with a view to its receiving a superfund transfer,

(b) enter into any arrangements on behalf of the scheme with a view to its receiving a superfund transfer, or

(c) cause or permit such promotion to take place or such arrangements to be entered into.

(2) Subsection (1) does not apply where the person takes all reasonable steps to ensure—

(a) in relation to promotion of a scheme, that it is clear from the promotion that the scheme is not part of an authorised superfund;

(b) in relation to arrangements entered into, that it is clear to every party to the arrangements, as at the time when the arrangements are entered into, that the scheme is not part of an authorised superfund.

(3) A person who breaches subsection (1) commits an offence.

(4) A person who commits an offence under subsection (3) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(5) Article 83A of the Pensions (Northern Ireland) Order 2005 (financial penalties) applies to a person who breaches subsection (1) (but see paragraph (10)

of that Article, which prevents a penalty from being imposed in respect of an act where the person has been convicted of an offence in respect of the same act, or where proceedings for such an offence are ongoing).

Authorisation of superfunds

50.—(1) The Regulator may authorise a superfund if satisfied, based on the superfund's organisation, staff, plans, policies and procedures, that it is likely to comply with the requirements of Chapters 4 and 5 (ongoing requirements for superfunds).

(2) An application for authorisation must be made jointly by—

(a) the trustees of the superfund scheme, and

(b) a body corporate that is incorporated in the United Kingdom and that is involved in the scheme's management or administration.

(3) An application for authorisation must be made in the manner and form specified by the Regulator.

(4) The Department may by regulations make provision about applications for authorisation, including provision—

(a) about the documents and information that an application must include;

(b) requiring a fee to be paid to the Regulator in respect of an application.

(5) The Regulator must maintain and publish a list of authorised superfunds.

(6) Where a superfund has not yet received a superfund transfer, the Regulator may withdraw the superfund's authorisation if no longer satisfied as described in subsection (1).

(7) Regulations under subsection (4) are subject to negative resolution.

Timing of decisions about authorisation

51.—(1) The Regulator must decide an application under this Chapter before the end of the period of 6 months beginning with the day on which it received the application ("the decision period").

(2) If in a particular case the Regulator considers that the decision period is insufficient to enable it to decide the application, it may on one or more occasions extend that period by notice to the applicants; but it may not extend it beyond the end of the period of 9 months beginning with the day on which it received the application.

(3) Where an application received by the Regulator fails to comply with section 50 or regulations made under it (including where the applicants fail to pay a fee required in respect of the application) the references in subsections (1) and (2) to the day on which the Regulator receives the application are to the day on which the failure is remedied.

CHAPTER 3

APPROVAL OF SUPERFUND TRANSFERS

Prohibition of unapproved superfund transfers

52.—(1) A person may not make or receive a superfund transfer, or cause or permit a superfund transfer to be made or received, unless the superfund transfer is approved under this Chapter.

(2) A person who breaches subsection (1) commits an offence.

(3) A person who commits an offence under subsection (2) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(4) Article 83A of the Pensions (Northern Ireland) Order 2005 (financial penalties) applies to a person who breaches subsection (1) (but see paragraph (10) of that Article, which prevents a penalty from being imposed in respect of an act where the person has been convicted of an offence in respect of the same act, or where proceedings for such an offence are ongoing).

Approval of superfund transfers

53.—(1) The Regulator may approve a superfund transfer if—

(a) the receiving superfund is authorised,

(b) the ceding scheme does not have any active members, and

(c) the Regulator is satisfied, based on evidence provided by the trustees of the ceding scheme and by the responsible body of the receiving superfund, that each of the onboarding conditions is met in relation to the transfer.

(2) For the purposes of this Part, "the onboarding conditions" in relation to a superfund transfer are—

(a) that, as at the date of the application, the financial position of the ceding scheme is not strong enough to enable the trustees to arrange an insurer buyout;

(b) that the superfund transfer will make it more likely that the transferred liabilities will be satisfied in full;

(c) that it is reasonable to expect that the capital adequacy threshold will be met in relation to the receiving superfund immediately following the superfund transfer;

(d) that it is reasonable to expect that the technical provisions threshold will be met in relation to the receiving superfund at the end of the period specified in regulations made by the Department;

(e) that the receiving superfund is likely to comply with the requirements of Chapters 4 and 5 (ongoing requirements of superfunds) after the superfund transfer takes place.

(3) Approval under this section may be given subject to conditions, including as to—

(a) the superfund transfer being made on terms of a specified description;

(b) the superfund transfer being made within a period of a specified description;

(c) any of the onboarding conditions continuing to be met for a period of a specified description after approval is given but before the superfund transfer is made.

(4) The Department may by regulations amend this section for the purpose of substituting another condition relating to the financial position of the ceding scheme for the onboarding condition for the time being in subsection (2)(a).

(5) The Department may by regulations make provision about the onboarding conditions, including provision about—

(a) the information and evidence that the trustees of the ceding scheme and the responsible body of the receiving superfund must provide for the purpose of satisfying the Regulator that an onboarding condition is met;

(b) how the Regulator is to assess whether an onboarding condition is met;

(c) the conditions that may or must be imposed under subsection (3).

(6) The Department may by regulations modify subsection (2) in its application to a superfund transfer of a kind described in section 48(3) (merger of sections etc.).

(7) In relation to a superfund transfer—

"the ceding scheme" means the scheme from which the transferred liabilities are transferred (or intended to be transferred);

"the receiving superfund" means the superfund that includes the superfund scheme to which the transferred liabilities are transferred (or intended to be transferred);

"the transferred liabilities" means the liabilities that are transferred (or intended to be transferred).

(8) In subsection (1), "active members" has the same meaning as in Part 2 of the Pensions (Northern Ireland) Order 1995 (see Article 121 of that Order).

(9) Regulations under subsection (2)(d) are subject to negative resolution.

(10) Regulations under subsection (4) or (5) are subject to the confirmatory procedure.

(11) Regulations under subsection (6) are subject to negative resolution.

(12) See also section 54 (which makes special provision in relation to schemes that are being wound up in particular circumstances).

Special provision for certain schemes coming out of assessment period

54. Where in relation to a superfund transfer the ceding scheme is required to be wound up, or its winding up is required to continue, under Article 138(1) of the Pensions (Northern Ireland) Order 2005 (pension protection: requirement to

wind up schemes with sufficient assets to meet protected liabilities), section 53(2) has effect as though—

(a) paragraph (a) were omitted, and

(b) for paragraph (b) there were substituted—

"(b) that the superfund transfer—

(i) will increase the proportion of the transferred liabilities likely to be satisfied, and

(ii) will not lead to any member of the ceding scheme being worse off than they would be if the superfund transfer were not made;".

Applications for approval

55.—(1) An application for approval under section 53 must be made jointly by—

(a) the trustees of the ceding scheme, and

(b) the responsible body of the receiving superfund.

(2) The application must be made in the manner and form specified by the Regulator.

(3) The Regulator must decide whether or not to approve a superfund transfer, and must notify the applicants of its decision, as soon as reasonably practicable after receiving the application.

(4) The Department may by regulations make provision about applications for approval, including about the documents and information that must be included in an application.

(5) Regulations under subsection (4) are subject to negative resolution.

CHAPTER 4

ONGOING REQUIREMENTS OF OPERATING SUPERFUNDS

Governance and organisation

Governance and structure

56.—(1) The responsible body of an operating superfund must ensure, so far as reasonably practicable, that the superfund has policies and procedures in place—

(a) that allow for the superfund to be managed and administered effectively in the interests of members of the superfund scheme,

(b) that ensure the superfund's compliance with the requirements of this Part and any other legislation relating to pensions, and

(c) that are proportionate to the scale and nature of the superfund's activities.

(2) Those policies and procedures must, in particular, address the following matters—

(a) how the responsible body, the other members of the superfund group, and the trustees of the superfund scheme are to interact with each other, and how any conflicts are to be resolved;

(b) how investment decisions are to be taken in relation to the capital buffer and the superfund scheme;

(c) the implications of receiving new superfund transfers;

(d) the management of risks.

(3) The responsible body of an operating superfund must ensure that the superfund meets any conditions specified in regulations made by the Department as to—

(a) the corporate form, jurisdiction of incorporation or jurisdiction of tax residence of a member of the superfund group;

(b) the structure of the superfund group;

(c) the terms of the capital buffer arrangement (including as to how, by whom, in what jurisdiction and on what terms the capital buffer may be held);

(d) compliance with tax legislation.

(4) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches subsection (1) or (3).

(5) The Department may by regulations amend this section for the purpose of adding, removing or varying a matter which the policies and procedures mentioned in subsection (1) must address.

(6) Regulations under subsection (3) or (5) are subject to the confirmatory procedure.

Management documents

57.—(1) The responsible body of an operating superfund must ensure that each of the management documents—

(a) is prepared in relation to the superfund,

(b) complies with any requirements as to form or content specified in regulations made by the Department, and

(c) is kept under review and revised if appropriate.

(2) The responsible body of an operating superfund must ensure, so far as reasonably practicable, that the superfund is managed and administered in accordance with the management documents.

(3) "The management documents" means—

(a) a business plan;

(b) a governance manual;

(c) a continuity strategy;

(d) a fees and expenses policy.

(4) In subsection (3)—

"continuity strategy" means a strategy for protecting the interests of members of the superfund scheme if an event of concern occurs;

"fees and expenses policy" means a document setting out how fees and expenses incurred by the superfund will be funded;

"governance manual" means a document setting out how and by whom the superfund is managed and administered.

(5) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches subsection (1) or (2).

(6) The Department may by regulations amend this section for the purpose of adding, removing or varying a management document in subsection (3).

(7) Regulations under subsection (1)(b) are subject to negative resolution.

(8) Regulations under subsection (6) are subject to the confirmatory procedure.

Funding and investment

Duty to monitor financial thresholds

58.—(1) The responsible body of an operating superfund must ensure that the superfund has adequate policies and procedures in place for monitoring whether each financial threshold is met.

(2) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches subsection (1).

(3) See also Chapter 5 (events of concern) for the consequences of a financial threshold ceasing to be met.

"Financial thresholds"

59.—(1) "The financial thresholds" means—

(a) the capital adequacy threshold,

(b) the technical provisions threshold,

(c) the protected liabilities threshold, and

(d) the scheme solvency threshold.

(2) "The capital adequacy threshold" is met in relation to a superfund if the total value of the assets of the scheme and the capital buffer is such that there is a very high likelihood that the liabilities of the scheme to and in respect of its members will be satisfied in full.

(3) "The technical provisions threshold" is met in relation to a superfund if the total value of the assets of the scheme and the capital buffer is greater than or equal to the scheme's technical provisions.

(4) "The protected liabilities threshold" is met in relation to a superfund if the total value of the assets of the scheme and the capital buffer exceeds a specified percentage of the amount of the scheme's protected liabilities.

(5) "The scheme solvency threshold" is met in relation to a superfund on a given day if there is no material likelihood that the scheme will fail to satisfy all the liabilities to and in respect of members that it is required to satisfy during the 6 months beginning with that day.

(6) In this section—

"protected liabilities" has the same meaning as in Chapter 3 of Part 3 of the Pensions (Northern Ireland) Order 2005 (see Article 115 of that Order);

"specified" means specified in regulations made by the Department;

"technical provisions" has the same meaning as in Article 201 of the Pensions (Northern Ireland) Order 2005 (and a superfund scheme's technical provisions are to be calculated for the purposes of this section in the same way as its technical provisions would be calculated for the purposes of that Article).

(7) The Department may by regulations make provision about how to determine whether any of the financial thresholds is met, including about—

(a) how and by whom the value of the assets, liabilities or protected liabilities of the scheme, or the value of the capital buffer, is to be determined;

(b) how and by whom the likelihood of something happening is to be assessed;

(c) what constitutes a "very high" or "material" likelihood (including provision defining those expressions by reference to particular percentages or particular criteria).

(8) Regulations under subsection (7) may confer a discretion.

(9) Regulations under subsection (4) or (7) are subject to the confirmatory procedure.

Capital buffer: compulsory release to trustees

60.—(1) A person that is a party to the capital buffer arrangement in relation to an operating superfund must ensure, so far as it is in their power to do so, that the capital buffer arrangement requires the release of the capital buffer to the trustees of the superfund scheme if and to the extent that the release is required by—

(a) an approved response plan (see sections 75 and 76), or

(b) a direction of the Regulator under section 77 (direction-making powers following event of concern).

(2) The capital buffer is "released" to the extent that it is transferred or made available to any person otherwise than—

(a) in the ordinary course of the investment of the capital buffer, or

(b) in payment of fees, expenses, taxes or other charges incurred (in each case) in connection with the management or administration of the capital buffer.

(3) Article 83A of the Pensions (Northern Ireland) Order 2005 (civil penalties) applies to the person if they breach subsection (1).

Capital buffer: permitted release to other persons

61.—(1) A person that is a party to the capital buffer arrangement in relation to an operating superfund must ensure, so far as it is in their power to do so, that the capital buffer arrangement does not permit the release of the capital buffer to

a person other than the trustees of the superfund scheme except in accordance with subsection (2) or (3).

(2) The capital buffer arrangement may permit the release of the whole capital buffer if—

(a) the superfund scheme has satisfied all of its liabilities to and in respect of its members, or

(b) an insurer buyout has taken effect in relation to the superfund scheme.

(3) The capital buffer arrangement may permit the release of an amount of the capital buffer to the extent that the release is a permitted profit extraction.

(4) "Permitted profit extraction", in relation to a superfund, means a release of the capital buffer—

(a) that takes place at a time when the capital adequacy threshold is exceeded to an extent, and has been exceeded for a period of time, specified in regulations made by the Department,

(b) that is made to a person of a description specified in the regulations, and

(c) in relation to which any other requirements specified in the regulations are met (which may include a requirement for the Regulator's consent),

and for the purposes of paragraph (a) the capital adequacy threshold is "exceeded" if and to the extent that the total value of the assets of the scheme and the capital buffer is greater than the amount required in order for that threshold to be met.

(5) A person commits an offence if they cause or permit the capital buffer to be released (to any extent)—

(a) to a person other than the trustees of the superfund scheme, and

(b) otherwise than in accordance with the capital buffer arrangement.

(6) A person guilty of an offence under subsection (5) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine, or both.

(7) Article 83A of the Pensions (Northern Ireland) Order 2005 (civil penalties) applies to a person who causes or permits the capital buffer to be released (to any extent)—

(a) to a person other than the trustees of the superfund scheme, and

(b) otherwise than in accordance with the capital buffer arrangement

(but see paragraph (10) of that Article, which prevents a penalty from being imposed in respect of an act where the person has been convicted of an offence in respect of the same act, or where proceedings for such an offence are ongoing).

(8) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to a person who breaches subsection (1).

(9) Regulations under subsection (4) are subject to the confirmatory procedure.

Capital buffer: investment

62.—(1) The responsible body of an operating superfund must ensure that this section is complied with.

(2) The capital buffer must be invested in accordance with a strategy prepared by or under the supervision of the responsible body ("the capital buffer investment strategy").

(3) The capital buffer investment strategy must comply with any requirements specified in regulations made by the Department.

(4) The requirements that may be specified by virtue of subsection (3) include requirements as to—

(a) the principles to be followed, and the matters to be taken into account, in investing the capital buffer;

(b) the form and content of the capital buffer investment strategy.

(5) The capital buffer investment strategy may not be materially altered except with the agreement of the trustees of the superfund scheme.

(6) The Department may by regulations make provision about what counts as a "material" alteration for the purposes of subsection (5).

(7) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches subsection (1).

(8) Regulations under subsection (3) are subject to the confirmatory procedure.

(9) Regulations under subsection (6) are subject to negative resolution.

Capital buffer: verification of valuations

63.—(1) The responsible body of an operating superfund must appoint a person to be responsible for verifying valuations of the capital buffer that are carried out by or on behalf of the responsible body.

(2) The responsible body must ensure that the person appointed verifies such a valuation at least once in every period of 12 months.

(3) The responsible body must also ensure that the person appointed verifies such a valuation—

(a) if asked to do so by the trustees of the superfund scheme, and

(b) where otherwise required by virtue of this Part.

(4) The person appointed—

(a) must not be employed by, or involved in the management or administration of, a member of the superfund group, and

(b) must be a person who, in the reasonable opinion of the responsible body, has the appropriate qualifications and experience.

(5) A person may not be appointed without the consent of the trustees of the superfund scheme.

(6) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches this section.

Approval and certification of key personnel

Key functions

64.—(1) The responsible body of an operating superfund must ensure that there is at all times at least one individual responsible for each key function.

(2) Each of the following activities is a "key function" in relation to a superfund—

(a) taking management decisions;

(b) taking financial decisions;

(c) taking investment decisions;

(d) risk management;

(e) internal audit;

(f) marketing and promotion.

(3) An activity is not a key function so far as it relates only to the superfund scheme and not to any other part of the superfund.

(4) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches this section.

(5) The Department may by regulations amend this section for the purpose of adding, removing or varying a key function in subsection (2).

(6) Regulations under subsection (5) are subject to the confirmatory procedure.

Approval of individuals responsible for key functions

65.—(1) An individual may not be responsible for a key function in relation to an operating superfund unless they are approved by the Regulator to be responsible for that key function in relation to the superfund.

(2) The Regulator may approve an individual only if satisfied that they are a fit and proper person to be responsible for that key function in relation to the superfund.

(3) In deciding whether it is so satisfied the Regulator must take into account, in particular, any matters specified in regulations made by the Department.

(4) The Regulator may not approve an individual to be responsible for risk management if the individual is already responsible for taking investment decisions, and vice versa.

(5) An application for approval must be made in the manner and form specified by the Regulator.

(6) Approval may be given for a specified period or subject to specified conditions (in which case the person is only approved to be responsible for the key function in question for that period or while those conditions are met).

(7) Approval may be given in advance of the superfund being authorised or becoming an operating superfund.

(8) If no longer satisfied as described in subsection (2) in relation to an individual, the Regulator may by notice to the responsible body—

(a) suspend its approval in relation to the individual for a period specified in the notice, or

(b) revoke its approval in relation to the individual with effect from a date specified in the notice.

(9) Subsection (1) does not apply to an individual while—

(a) they are responsible for a key function on a temporary basis, and

(b) the Regulator agrees, in light of the particular circumstances of the case, to the person's being responsible for the key function on that basis without approval.

(10) If an individual is responsible for a key function in relation to an operating superfund in breach of subsection (1), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to—

(a) the individual, and

(b) the responsible body.

(11) Regulations under subsection (3) are subject to negative resolution.

Certification of staff supporting individuals responsible for key functions

66.—(1) The responsible body of an operating superfund must ensure, so far as reasonably practicable, that no individual carries out a key function in relation to the superfund unless the responsible body—

(a) is satisfied, having conducted due diligence in relation to the individual, that the individual is a fit and proper person to carry out the key function, and

(b) has issued a certificate to the individual confirming that it is so satisfied.

(2) The responsible body must keep a register of certificates issued under subsection (1).

(3) In deciding whether it is satisfied as described in subsection (1)(a), the responsible body must take into account, in particular, any matters specified in regulations made by the Department.

(4) The Department may by regulations make provision about certificates issued under subsection (1), including about the period of time for which a certificate is valid.

(5) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it breaches subsection (1).

(6) Regulations under subsection (3) or (4) are subject to negative resolution.

Approval of superfund scheme trustees

67.—(1) A person may not be a trustee of an operating superfund scheme unless they are approved by the Regulator to be a trustee of the scheme.

(2) The Regulator may approve a person to be a trustee of a superfund scheme only if satisfied they are a fit and proper person to be a trustee of the scheme.

(3) In assessing whether a person is a fit and proper person, the Regulator must take into account, in particular, any matters specified in regulations made by the Department.

(4) The Regulator may not approve a person to be a trustee of a superfund scheme if the person is employed by, or involved in the management or administration of, a member of the superfund group.

(5) An application for approval must be made in the manner and form specified by the Regulator.

(6) Approval may be given for a specified period or subject to specified conditions (in which case the person is approved to be a trustee only for that period or only while those conditions are met).

(7) Approval may be given in advance of the superfund being authorised or becoming an operating superfund.

(8) If no longer satisfied as described in subsection (2) in relation to a person, the Regulator may by notice to the person—

(a) suspend its approval in relation to the person for a period specified in the notice, or

(b) revoke its approval in relation to the person with effect from a date specified in the notice.

(9) Subsection (1) does not apply to a person while—

(a) they serve as a trustee of a superfund scheme on a temporary basis, and

(b) the Regulator agrees, in light of the particular circumstances of the case, to their being a trustee on that basis without approval.

(10) If a person becomes a trustee of an operating superfund scheme in breach of subsection (1), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to—

(a) the person, and

(b) the person who appointed them.

(11) Regulations under subsection (3) are subject to negative resolution.

Information and reporting

Events to be notified to the Regulator

68.—(1) The responsible body of an operating superfund must notify the Regulator of any of the following—

(a) a material deterioration in the investment performance of the capital buffer;

(b) a material change to any of the management documents;

(c) a material change to the capital buffer arrangement;

(d) a release of any of the capital buffer by way of permitted profit extraction;

(e) the bringing of proceedings against, or the launching of an investigation by a public body into, a member of the superfund group;

(f) a breach of any requirement of this Chapter.

(2) The trustees of an operating superfund scheme must notify the Regulator of any of the following—

(a) a material deterioration in the investment performance of the scheme;

(b) a material change to the rules of the scheme;

(c) the bringing of proceedings against, or the launching of an investigation by a public body into, the trustees.

(3) A notification under this section must be made—

(a) where the person responsible for the notification is aware in advance that the event in question is to take place, as soon as reasonably practicable after the person becomes so aware;

(b) otherwise, as soon as reasonably practicable after the event takes place.

(4) A notification under this section must be made in the manner and form specified by the Regulator.

(5) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to a person who breaches this section.

(6) The Department may by regulations make provision (including provision amending this section)—

(a) for the purpose of adding, removing or varying a matter to be notified under subsection (1) or (2);

(b) about what counts as "material" for the purposes of any paragraph of subsection (1) or (2).

(7) Regulations under subsection (6) are subject to the confirmatory procedure.

Regular reporting

69.—(1) The trustees of an operating superfund scheme must provide the Regulator with regular reports about the financial position of the superfund.

(2) The reports must comply with any requirements specified in regulations made by the Department, which may in particular include requirements as to—

(a) the form and content of reports;

(b) the times at which, and intervals at which, reports are to be provided.

(3) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the trustees if they breach this section.

(4) Regulations under subsection (2) are subject to negative resolution.

Returns

70.—(1) The Regulator may, by notice to the responsible body of an operating superfund, require the responsible body to submit a return to the Regulator for the purpose of enabling the Regulator to monitor—

(a) the financial position of the superfund, or

(b) the superfund's compliance with the requirements of this Chapter.

(2) The notice must specify—

(a) the period within which the return must be submitted, and

(b) the information (or description of information) which the return must contain.

(3) The Regulator may not require the responsible body to submit a return more than once in any period of 12 months.

(4) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it fails to submit a return in accordance with a notice under this section.

Reports in relation to alleged compliance breaches

71.—(1) If the Regulator considers or suspects that a requirement of this Chapter has been breached in relation to an operating superfund, it may give the responsible body notice of its intention to appoint a person to prepare a report about the issue to which the alleged breach relates.

(2) Where such notice is given, the responsible body—

(a) must provide the person appointed with whatever assistance the person reasonably requires, and

(b) must meet the Regulator's reasonable costs in respect of the report.

(3) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it fails to comply with subsection (2).

Provision of information by responsible body to trustees

72.—(1) The responsible body of an operating superfund must provide the trustees of the superfund scheme with whatever information relating to the superfund the trustees may reasonably request to enable the trustees to comply with any legislation relating to pensions that applies to them in respect of the superfund scheme.

(2) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to the responsible body if it fails to comply with subsection (1).

CHAPTER 5

EVENTS OF CONCERN

"Event of concern" and "period of concern"

73.—(1) An "event of concern" takes place in relation to a superfund if any of the following takes place—

(a) any one of the financial thresholds ceases to be met (subject to subsection (4));

(b) a debt falls due to the trustees of the superfund scheme under Article 75 of the Pensions (Northern Ireland) Order 1995;

(c) the capital buffer is released otherwise than in accordance with the capital buffer arrangement;

(d) an insolvency event becomes, in the opinion of the directors of the responsible body, likely to occur in relation to the responsible body;

(e) an insolvency event occurs in relation to a member of the superfund group;

(f) the responsible body notifies the Regulator that it wishes to cease to be the responsible body;

(g) a material transaction takes place;

(h) a superfund transfer is made to the superfund scheme without approval under Chapter 3;

(i) an application is made under Chapter 3 for approval of a superfund transfer in relation to which the ceding scheme is itself a superfund scheme;

(j) an application is made under Chapter 3 for approval of a superfund transfer of a kind described in section 48(3) (merger of sections etc.);

(k) the responsible body or the trustees of the superfund scheme receive a notice from the Regulator stating that, in the Regulator's opinion, the recipient of the notice—

(i) has breached a requirement of this Part or of any other legislation relating to pensions that applies to them in respect of the superfund, or

(ii) is likely to breach such a requirement if remedial action is not taken;

(l) the Regulator withdraws the superfund's authorisation under section 81.

(2) "Period of concern", in relation to an event of concern, means the period beginning when the event takes place and ending—

(a) when the Regulator gives the responsible body a notice under section 75(5) (event of concern resolved) in respect of the event, or

(b) when the superfund scheme is wound up.

(3) In subsection (1)(g) "material transaction" means—

(a) a change in the person or persons who have control of the responsible body, or

(b) a sale by a member of the superfund group of all or substantially all of its assets.

(4) The Department may by regulations provide that an event of concern within subsection (1)(a) does not take place—

(a) unless the Regulator is satisfied that the financial threshold in question is not met, or

(b) unless the threshold is not met for a period, or in circumstances, specified in the regulations (and for that purpose the period or circumstances specified may involve the exercise of a discretion by the Regulator).

(5) The Department may by regulations amend this section for the purpose of adding, removing or varying—

(a) an event of concern in subsection (1);

(b) a material transaction in subsection (3).

(6) In this section—

"control" has the same meaning as in Article 4 of the Insolvency (Northern Ireland) Order 1989;

"director" includes any person occupying the position of director, by whatever name called;

"insolvency event" has the same meaning as in Part 3 of the Pensions (Northern Ireland) Order 2005 (see Article 105 of that Order).

(7) Regulations under this section are subject to the confirmatory procedure.

Notification of Regulator in respect of events of concern

74.—(1) A relevant person in relation to an operating superfund must notify the Regulator as soon as reasonably practicable after becoming aware that an event of concern—

(a) will or is likely to take place in relation to the superfund, or

(b) has already taken place in relation to the superfund.

(2) No notification need be given if the relevant person knows the Regulator already to be aware of the circumstances to be notified.

(3) The following are "relevant persons" in relation to an operating superfund—

(a) the responsible body;

(b) the trustees of the superfund scheme;

(c) in relation to the event of concern in section 73(1)(a), the actuary appointed under Article 47(1)(b) of the Pensions (Northern Ireland) Order 1995 in relation to the superfund scheme.

Responding to events of concern

75.—(1) If an event of concern takes place in relation to an operating superfund, the Regulator must require the responsible body or the trustees of the superfund scheme, or both jointly, to propose a plan for responding to the event of concern (a "response plan") within a period specified by the Regulator.

(2) The Regulator must approve a proposed response plan if satisfied, having regard to the interests of members of the superfund scheme, that the response plan—

(a) meets the requirements of section 76 (content of response plan), and

(b) is an appropriate plan for responding to the event of concern.

(3) If, having received a proposed response plan, the Regulator is not so satisfied—

(a) it must explain to the person that proposed the plan why not, and

(b) that person must propose another response plan, within the period required by the Regulator, that takes account of that explanation.

(4) An approved response plan may be amended, or replaced with a new approved response plan, by agreement between the person that proposed the plan and the Regulator.

(5) If the Regulator is satisfied—

(a) that an approved response plan has been carried out, and

(b) that the event of concern in question has been adequately resolved,

it must give a notice to that effect to the person that proposed the plan.

(6) In subsections (2) and (3), "proposed response plan" means a response plan proposed by virtue of subsection (1) or (3)(b).

Content of response plan

76.—(1) The requirements mentioned in section 75(2)(a) are the following.

(2) A response plan must specify—

(a) the outcome which the plan is intended to achieve,

(b) the key steps which are to be taken to achieve that outcome,

(c) when and by whom those steps are to be taken, and

(d) how members of the superfund scheme are to be kept informed about the carrying out of the plan.

(3) Where the event of concern is the technical provisions threshold ceasing to be met, the response plan must require the whole of the capital buffer to be released to the trustees.

(4) Where the event of concern is the scheme solvency threshold ceasing to be met, the response plan must require so much of the capital buffer to be released to the trustees as equals the lower of the following—

(a) the amount that would enable the superfund scheme to meet the requirement in Article 201(1) of the Pensions (Northern Ireland) Order 2005 (requirement to cover technical provisions);

(b) the total value of the capital buffer.

(5) Where the event of concern is a debt falling due to the trustees of the superfund scheme under Article 75 of the Pensions (Northern Ireland) Order 1995, the response plan must require so much of the capital buffer to be released to the trustees as equals the lower of the following—

(a) the amount of the debt;

(b) the total value of the capital buffer.

(6) Where the event of concern is the protected liabilities threshold ceasing to be met, the response plan must require the immediate winding up of the superfund scheme.

(7) A response plan must take account of the superfund's continuity strategy (but may deviate from it if, in the opinion of the person proposing the plan, the course of action contemplated by the continuity strategy is not appropriate in the circumstances).

(8) A response plan must not require the release of the capital buffer (to any extent) except as set out in subsection (3), (4) or (5).

(9) A response plan must meet any other requirements specified in regulations made by the Department, including in particular as to how the value of the capital buffer, or of any assets released from it, is to be determined for the purposes of a requirement within subsection (4) or (5).

(10) Regulations under subsection (9) are subject to negative resolution.

Regulator's direction-making powers during period of concern

77.—(1) The Regulator may during a period of concern direct a member of the superfund group or the trustees of the superfund scheme to do any or all of the following—

(a) take a specified step that an approved response plan identifies as one which they are to take;

(b) take a specified step that the Regulator considers likely to enable or facilitate the carrying out of an approved response plan;

(c) if a person has failed to comply with section 75(1) or (3)(b) (requirement to propose response plan or revised response plan), take a specified step that the Regulator considers necessary or expedient for the purpose of responding to the event of concern in the interests of members of the superfund scheme;

(d) ensure that for a specified period—

(i) no payments are made out of the assets of the superfund scheme to or in respect of members;

(ii) no transfers of liabilities are made from the superfund scheme.

(2) A direction under subsection (1)(c) may not require the provision of financial support to the superfund scheme.

(3) A member of the superfund group, and the trustees of the superfund scheme, must comply with a direction given to them by the Regulator under this section; and if compliance with a direction results in a breach of the rules of the scheme, the breach is to be disregarded for all purposes.

(4) If an approved response plan contemplates that a person will become the responsible body of a superfund, and that person agrees to become the responsible body, the Regulator may direct that that person is to become the responsible body from a specified time.

(5) In this section, "specified" means specified (or of a description specified) in the direction.

(6) See section 78 for further provision about directions under subsection (1)(d).

Directions to pause payments or transfers of liabilities: supplementary provision

78.—(1) This section applies to a direction under section 77(1)(d) (a "pause direction").

(2) The Regulator may make a pause direction only if satisfied that doing so is reasonably necessary to protect the interests of members of the superfund scheme.

(3) A pause direction may make different provision for different purposes.

(4) The Regulator must cancel a pause direction if no longer satisfied as described in subsection (2).

(5) A pause direction, so far as not already cancelled, ceases to have effect when the period of concern to which it relates comes to an end.

(6) A payment that would have fallen due but for a pause direction falls due when the pause direction ceases to have effect.

(7) A pause direction within section 77(1)(d)(ii) (no transfers of liabilities) does not affect an order or provision falling within Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (pension sharing orders or provisions).

(8) The Department may by regulations modify any provision of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993 (transfer rights etc.) in its application to a superfund scheme in relation to which a pause direction has effect containing provision within section 77(1)(d)(ii) (no transfer of liabilities).

(9) Regulations under subsection (8) are subject to the confirmatory procedure.

Fixed penalty notices

79.—(1) The Regulator may issue a fixed penalty notice to a person if it considers that the person has failed to comply with a requirement imposed by or under section 74, 75 or 77.

(2) A "fixed penalty notice" is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.

(3) The penalty—

(a) is to be determined in accordance with regulations made by the Department, and

(b) must not exceed £100,000.

(4) A fixed penalty notice must—

(a) state the amount of the penalty,

(b) state the date before which the penalty must be paid, which must be at least 28 days after the date on which the notice is issued,

(c) specify the failure to which the penalty relates,

(d) state that the Regulator may issue an escalating penalty notice under section 80 if the person fails to comply with the requirement in question, and

(e) notify the person to whom the notice is issued of the review process under section 43 of the Pensions (No. 2) Act (Northern Ireland) 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (5)).

(5) The following sections of the Pensions (No. 2) Act (Northern Ireland) 2008 apply to a penalty notice under this section as they apply to a penalty notice under section 40 of that Act—

(a) section 42 (penalty notices: recovery);

(b) section 43 (review of penalty notices);

(c) section 44 (references to First-tier Tribunal or Upper Tribunal).

(6) Regulations under subsection (3)(a) are subject to negative resolution.

Escalating penalty notices

80.—(1) The Regulator may issue an escalating penalty notice to a person if—

(a) it considers that the person has failed to comply with a requirement imposed by or under section 74, 75 or 77,

(b) it has already issued the person with a fixed penalty notice under section 79 in respect of that failure, and

(c) the period for paying the penalty specified in that notice has passed without the requirement to which that notice related being complied with.

(2) An "escalating penalty notice" is a notice requiring a person to pay a penalty calculated by reference to a daily rate if the person fails before a specified date to comply with the requirement to which the notice relates.

(3) The daily rate—

(a) is to be determined in accordance with regulations made by the Department, and

(b) must not exceed £20,000.

(4) The Regulator may not issue an escalating penalty notice to a person if—

(a) the person has exercised the right of referral to a tribunal under section 44 of the Pensions (No. 2) Act (Northern Ireland) 2008 (as applied by section 79(5)) in respect of a fixed penalty notice issued under section 79,

(b) the escalating penalty notice relates to the same failure as the fixed penalty notice, and

(c) the reference in respect of the fixed penalty notice has not been determined.

(5) An escalating penalty notice must—

(a) specify the failure to which the penalty relates,

(b) state that, if the person fails to comply with the requirement to which the notice relates before a specified date, the person will be liable to pay an escalating penalty,

(c) state the daily rate of the escalating penalty and the way in which the penalty is calculated,

(d) state the date from which the escalating penalty will be payable,

(e) state that the escalating penalty will continue to be payable at the daily rate until the date on which the person complies with the requirement to which the notice relates or an earlier date specified in the notice, and

(f) notify the person to whom the notice is issued of the review process under section 43 of the Pensions (No. 2) Act (Northern Ireland) 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (6)).

(6) The following sections of the Pensions (No. 2) Act (Northern Ireland) 2008 apply to an escalating penalty notice under this section as they apply to an escalating penalty notice under section 41 of that Act—

(a) section 42 (penalty notices: recovery);

(b) section 43 (review of penalty notices);

(c) section 44 (references to First-tier Tribunal or Upper Tribunal).

(7) Regulations under subsection (3)(a) are subject to negative resolution.

Withdrawal of authorisation

81. The Regulator may during a period of concern withdraw authorisation from a superfund if satisfied that the superfund has failed to comply with the requirements of Chapter 4 or this Chapter.

Release of capital buffer treated as reducing employer debt

82. Where some or all of the capital buffer is released in consequence of a debt falling due to the trustees of the superfund scheme under Article 75 of the Pensions (Northern Ireland) Order 1995, the debt due under that Article is treated as reduced by the value of the assets released (as calculated in accordance with regulations under section 76(9)).

CHAPTER 6

GENERAL PROVISION AND INTERPRETATION

Power to extend superfunds legislation to similar structures

83.—(1) The Department may by regulations—

(a) apply any superfunds legislation, with or without modifications, to a similar structure;

(b) make, in relation to a similar structure, provision that is similar to or that corresponds to any superfunds legislation.

(2) "Superfunds legislation" means provision made by this Act (including provision amending other legislation) so far as it applies in relation to superfunds.

(3) "Similar structure" means arrangements to which this Part does not (ignoring this section) apply but that involve a trust-based occupational pension scheme—

(a) that has defined-benefit liabilities, and

(b) that is not supported by a substantive employer covenant

(whether or not the scheme receives, or is managed or administered with a view to its receiving, transfers of defined-benefit liabilities from other schemes).

(4) The power under subsection (1) can be exercised so as to amend an Act of Parliament or any Northern Ireland legislation.

(5) Regulations under subsection (1) are subject to the confirmatory procedure.

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

84.—(1) This section applies to a pension scheme—

(a) that is established for the purpose of receiving superfund transfers, and

(b) that, immediately after it is established, is capable of having effect so as to provide benefits to or in respect of people with service in employment of a description.

(2) For the purposes of the definition of "occupational pension scheme" in section 1(1) of the Pension Schemes (Northern Ireland) Act 1993, the scheme is assumed to meet the condition in paragraph (a) of that definition (condition that scheme be established by employer for the purpose of providing benefits to employees).

(3) For the purposes of the definitions mentioned in paragraphs (a) to (c) of this subsection, the scheme is assumed to relate to the description of employment mentioned in subsection (1)(b) above (in addition to any other description of employment to which it relates)—

(a) the definition of "employer" in Article 121(1) of the Pensions (Northern Ireland) Order 1995;

(b) paragraph (a) of the definition of "employer" in Article 2(2) of the Pensions (Northern Ireland) Order 2005;

(c) the definition of "the employer" in section 87 of this Act.

(4) If—

(a) the scheme includes more than one section, and

(b) a section of the scheme is, immediately after the section comes into being, capable of having effect so as to provide benefits to or in respect of people with service in employment of a description,

then for the purposes of the definitions mentioned in subsection (3)(a) to (c), both the section and the scheme are assumed to relate to the description of employment mentioned in paragraph (b) of this subsection (in addition to any other description of employment to which they relate).

Consequential amendments

85.—(1) In the Pensions (Northern Ireland) Order 1995, in Article 75 (deficiencies in the assets), after paragraph (1A) insert—

"(1B) In relation to a superfund scheme, section 48(2) of the Pension Schemes Act (Northern Ireland) 2027 (sections treated as separate schemes) applies for the purposes of this Article as it applies for the purposes of Part 3 of that Act.".

(2) In the Occupational Pensions Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 (S.R. 1991/37), in regulation 12 (transfer of member's accrued rights without consent), after paragraph (1) insert—

"(1ZA) Where—

(a) the transferring scheme is required to be wound up, or its winding up is required to continue, under Article 138(1) of the Pensions (Northern Ireland) Order 2005 (requirement to wind up schemes with sufficient assets to meet protected liabilities), and

(b) the receiving scheme is a superfund scheme within the meaning of Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act),

paragraph (1) of this regulation has effect as though for "the conditions set out in paragraphs (2) and (3) are" there were substituted "the condition set out in paragraph (2) is"".

(3) See also the Schedule, which contains amendments to the Pensions (Northern Ireland) Order 2005 that (in some cases) are consequential on this Part.

Transitional provision

86.—(1) The provision that may be made by virtue of section 96(9) (power to make transitional or saving provision in connection with coming into operation of Act) includes special provision in relation to a superfund that has been authorised under the interim regime; for example, provision—

(a) for a provision of this Part not to apply to, or to apply differently in respect of, a superfund that has been authorised under the interim regime;

(b) for a superfund that has been authorised under the interim regime to be treated for the purposes of any provision of Chapter 4 or 5 as an operating superfund.

(2) For the purposes of subsection (1), a superfund is "authorised under the interim regime" if its name has been published on the Regulator's website as a result of its having made a successful application to the Regulator under the arrangements for the assessment and supervision of superfunds operated by the Regulator before the coming into operation of this Part.

Interpretation of Part

87.—(1) In this Part—

"approved response plan" means a response plan which has been approved by the Regulator under section 75;

"assets", in relation to the capital buffer, includes cash;

"associate", in relation to a body corporate, has the meaning given in Article 4(6) of the Insolvency (Northern Ireland) Order 1989 (read with Article 4(11));

"authorised", in relation to a superfund, means authorised under Chapter 2 (except in section 86);

"the capital adequacy threshold" has the meaning given by section 59(2);

"capital buffer" has the meaning given by section 47(3);

"the capital buffer arrangement", in relation to the capital buffer, means the contract or other arrangement referred to in section 47(2);

"the ceding scheme" has the meaning given by section 53(7);

"continuity strategy" has the meaning given by section 57(4);

"defined benefits" has the same meaning as in Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 (see section 78 of that Act);

"defined-benefit liability" means a liability to pay defined benefits to a member of a pension scheme;

"the employer", in relation to an occupational pension scheme, means the employer of persons in the description of employment to which the scheme in question relates (and see also section 84);

"event of concern" has the meaning given by section 73(1);

"the financial thresholds" has the meaning given by section 59(1);

"insurer buyout", in relation to a pension scheme, means an arrangement under which an insurer takes on responsibility for satisfying all the liabilities of the scheme in full;

"key function" has the meaning given by section 64(2) and (3);

"liabilities", in relation to a pension scheme, includes present and future liabilities;

"the management documents" has the meaning given by section 57(3);

"not supported by a substantive employer covenant" has the meaning given by section 47(4);

"occupational pension scheme" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 1 of that Act and section 84 above);

"the onboarding conditions" has the meaning given by section 53(2) (read with any regulations under section 53(4));

"operating superfund" means a superfund of which the superfund scheme is an operating superfund scheme;

"operating superfund scheme" means a superfund scheme—

(a) that is part of an authorised superfund or of a superfund whose authorisation has been withdrawn under section 81, and

(b) to which one or more superfund transfers have been made;

"pension scheme" has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993;

"period of concern" has the meaning given by section 73(2);

"permitted profit extraction" has the meaning given by section 61(4);

"the protected liabilities threshold" has the meaning given by section 59(4);

"the receiving superfund" has the meaning given by section 53(7);

"the Regulator" means the Pensions Regulator;

"release", in relation to the capital buffer, has the meaning given by section 60(2);

"response plan" has the meaning given by section 75(1);

"the responsible body", in relation to an authorised superfund, means—

(a) the body corporate that applied for the superfund to be authorised (see section 50(2)), or

(b) where the Regulator has directed under section 77(4) that another person is to become the responsible body, that other person;

"the rules of the scheme", in relation to a trust-based occupational pension scheme, includes the trust deed;

"the scheme solvency threshold" has the meaning given by section 59(5);

"section", in relation to a trust based occupational pension scheme, has the meaning given by section 48;

"superfund" has the meaning given by section 47(5);

"superfund group", in relation to a superfund, means the responsible body and every body corporate—

(a) that is involved in the management or administration of the superfund, and

(b) that is an associate of the responsible body;

"superfund scheme" has the meaning given by section 47(1) (read with section 48);

"superfund transfer" has the meaning given by section 47(6);

"supported by a capital buffer" has the meaning given by section 47(2);

"the technical provisions threshold" has the meaning given by section 59(3);

"transfer", in relation to liabilities of a pension scheme, is to be read with subsection (2);

"the transferred liabilities" has the meaning given by section 53(7);

"trust-based occupational pension scheme" means an occupational pension scheme established under a trust.

(2) References in this Part to a transfer of liabilities from one pension scheme to another are to any transaction whereby—

(a) a person who has present or future rights to receive defined benefits under the first scheme ceases to have those rights, and

(b) that person instead acquires present or future rights to receive defined benefits under the second scheme.

(3) The Department may by regulations amend this section for the purpose of changing the definition of "superfund group".

(4) Regulations under subsection (3) are subject to the confirmatory procedure.

PART 4

MISCELLANEOUS AND GENERAL

Miscellaneous

Pension protection levies

88.—(1) The Pensions (Northern Ireland) Order 2005 is amended as follows.

(2) For the italic heading before Article 157 substitute "Pension protection levies".

(3) Omit Article 157 (initial levy).

(4) In Article 158 (pension protection levies)—

(a) for paragraph (1) substitute—

"(1) For each financial year, the Board—

(a) may impose a risk-based pension protection levy in respect of a description of eligible scheme (or in respect of all eligible schemes), and

(b) if it does so, may also impose a scheme-based pension protection levy in respect of the same or a different description of eligible scheme (or in respect of all eligible schemes).

In this Chapter "pension protection levy" means a levy imposed in accordance with this section.";

(b) in paragraph (3), after sub-paragraph (a) insert—

"(aa) the risks associated with a description of scheme which the Board considers is not supported by a substantive employer covenant;";

(c) in the opening words of paragraph (5), after "financial year" insert "for which it decides to impose the pension protection levies (or one of them)";

(d) omit paragraph (7);

(e) before paragraph (8) insert—

"(7A) For the purposes of paragraph (3)(aa), a scheme is "not supported by a substantive employer covenant" if, based on the financial position of the employer, there is no realistic prospect of the employer being able to provide the trustees or managers with material financial support for the purpose of satisfying liabilities of the scheme.

For that purpose the employer's "financial position" means its financial position ignoring—

(a) any capital buffer (within the meaning of Part 3 of the Pension Schemes Act (Northern Ireland) 2027), and

(b) any financial support which it may obtain from another person but to which it is not entitled.";

(f) in paragraph (8), omit the definition of "initial period";

(g) in paragraph (9)—

(i) in the opening words, for "duty" substitute "power";

(ii) omit paragraph (b) and the "and" before it.

(5) In Article 159 (supplementary provisions about pension protection levies)—

(a) in paragraph (1)—

(i) for sub-paragraph (a) substitute—

"(a) no pension protection levies were imposed in the previous financial year, or";

(ii) in paragraph (b), for "the pension protection levies" substitute "any pension protection levies";

(iii) omit paragraph (c) and the "or" before it;

(b) for paragraph (2) substitute—

"(2) The Board must publish in the prescribed manner details of—

(a) any decision to impose, or not to impose, the levies for a financial year in respect of a description of scheme;

(b) any determination under Article 158(5).".

(6) In Article 160 (amounts to be raised by the pension protection levies)—

(a) at the beginning insert—

"(A1) Paragraphs (1) to (5) apply where the Board decides to impose one or both of the pension protection levies for a financial year.";

(b) in each of paragraphs (1), (2) and (3), for "a financial year" substitute "the financial year";

(c) omit paragraph (4);

(d) for paragraph (5) substitute—

"(5) The Board must impose pension protection levies for the financial year in a form which it estimates will raise an amount which does not exceed the sum of—

(a) the amount estimated under paragraph (1) in respect of any pension protection levies imposed for the previous financial year, and

(b) 25% of the levy ceiling for the previous financial year.";

(e) omit paragraph (7);

(f) in paragraph (8), omit paragraph (b) and the "and" before it.

(7) Omit Article 163 (transitional provision now spent).

(8) In Article 164 (calculation, collection and recovery of levies), in paragraph (1), omit sub-paragraph (a) and the "and" after it.

(9) In Article 288 (Assembly etc. control of orders and regulations), in paragraph (3), omit sub-paragraph (d).

Pensions dashboards

89.—(1) The Pensions (Northern Ireland) Order 2005 is amended as follows.

(2) In Article 185 (provision of information relating to the Pension Protection Fund to members of schemes etc.)—

(a) in paragraph (1)(a), after "times" insert "or in prescribed circumstances";

(b) after paragraph (1) insert—

"(1A) Regulations under paragraph (1)(a) may make provision about how information is to be provided, including provision requiring—

(a) the use of electronic communications;

(b) the use of facilities or services specified or of a description specified in the regulations;

(c) information to be provided in such a way that it can subsequently be provided by means of—

(i) a qualifying pensions dashboard service, or

(ii) the pensions dashboard service provided by the Money and Pensions Service.

(1B) In paragraph (1A)—

"pensions dashboard service" means a pensions dashboard service within the meaning of Article 215A(1);

"qualifying pensions dashboard service" has the meaning given by Article 215A(2).".

(3) In Article 215A (qualifying pensions dashboard service), in paragraph (4), after sub-paragraph (b) insert—

"(ba) information of a prescribed description about—

(i) the Pension Protection Fund;

(ii) the financial assistance scheme;

(bb) Pension Protection Fund information relating to the individual in question of such description as may be prescribed;

(bc) financial assistance scheme information relating to the individual in question of such description as may be prescribed;".

(4) In Article 215C (interpretation), in paragraph (4), at the appropriate place insert—

""financial assistance scheme" means the scheme provided for by regulations under section 286 of the Pensions Act 2004 (financial assistance scheme for members of certain pension schemes);".

Information to be given to pension schemes by employers

90.—(1) Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 (pension scheme membership for jobholders) is amended as follows.

(2) After section 11 (information to be given to the Pensions Regulator) insert—

"Information to be given to pension schemes

11A.—(1) The Department may make regulations requiring employers to provide information relating to—

(a) jobholders who are active members of a qualifying scheme, or

(b) workers who are active members of a pension scheme that satisfies the requirements of section 9,

to the trustees or managers of the scheme (where the scheme is an occupational pension scheme) or the provider of the scheme (where the scheme is a personal pension scheme).

(2) Regulations under this section may make provision—

(a) specifying the information to be provided;

(b) about when, or the frequency with which, the information (or a particular item of information) is to be provided;

(c) about how and in what form the information is to be provided.

(3) The information that regulations under this section may require employers to provide includes information about persons ceasing to be jobholders or workers within subsection (1)(a) or (b).".

(3) In section 34 (effect of failure to comply), in subsection (3), for "11" substitute "11A".

Funding of the Board of the Pension Protection Fund

91.—(1) In the Pensions (Northern Ireland) Order 2005—

(a) omit Article 102 (power of Department to pay grants to Board of Pension Protection Fund);

(b) omit Article 103 (power of Department to impose administration levy on pension schemes).

(2) No amount is payable to the Department by virtue of Article 103 of the Pensions (Northern Ireland) Order 2005 (administration levy) in respect of the financial years beginning with 1 April 2023 and 1 April 2024.

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

Funding of the Ombudsman for the Board of the Pension Protection Fund

92.—(1) In the Pension Schemes (Northern Ireland) Act 1993, in section 170(1) (general levy)—

(a) omit the "or" at the end of paragraph (d);

(b) after that paragraph insert—

"(da) of the Department under Article 191(2) of the Pensions (Northern Ireland) Order 2005 or of the Secretary of State under section 209(6) of the Pensions Act 2004 (payments to PPF Ombudsman), or".

(2) In Article 191 of the Pensions (Northern Ireland) Order 2005 (Ombudsman for the Board of the Pension Protection Fund), omit paragraphs (3) and (4).

General

Amendments of Pensions (Northern Ireland) Order 2005

93. The Schedule amends the Pensions (Northern Ireland) Order 2005 in consequence of or in connection with this Act.

Regulations under this Act

94.—(1) A power to make regulations under this Act includes power to make incidental, supplementary, consequential or transitional provision.

(2) A power to make regulations under any provision of this Act does not restrict the width of any power to make regulations under any other provision of this Act or under any other statutory provision (within the meaning of section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(3) Where regulations under this Act are subject to "the confirmatory procedure", the regulations—

(a) must be laid before the Assembly after being made,

(b) take effect on such date as may be specified in the regulations, and

(c) cease to have effect on the expiry of the period of six months beginning with the day on which they take effect, unless the regulations have been approved during that period by resolution of the Assembly.

Paragraph (c) is without prejudice to the validity of anything done under the regulations or to the making of new regulations.

(4) Any provision that may be made by regulations under this Act subject to negative resolution may instead be made by regulations subject to the confirmatory procedure.

References to the Department

95. In this Act, "the Department" means the Department for Communities.

Commencement

96.—(1) Any provision of or amendment made by this Act, so far as it confers a power to make subordinate legislation, comes into operation on the day on which this Act is passed.

(2) So far as not brought into operation under subsection (1), this Act comes into operation as follows.

(3) Part 1 comes into operation on such day as the Department may by order appoint.

(4) Part 2 comes into operation as follows—

(a) Chapter 1 comes into operation on such day as the Department may by order appoint;

(b) Chapter 2 comes into operation on the day on which this Act is passed;

(c) Chapter 3 comes into operation on such day as the Department may by order appoint;

(d) Chapter 4 comes into operation on such day as the Department may by order appoint;

(e) Chapter 5 comes into operation on such day as the Department may by order appoint.

(5) An order under subsection (4)(c) may not provide for the following to come into operation before 1 January 2030—

(a) section 31(4), in respect of the insertion of Condition 1 in section 20(1A) of the Pensions (No. 2) Act (Northern Ireland) 2008 (Master Trusts to be subject to scale requirement);

(b) section 31(8), in respect of the insertion of section 26(7A) of that Act (group personal pension schemes to be subject to scale requirement)

(but nothing in this subsection prevents section 31 from being brought into operation before that date in respect of the insertion in that Act of other provision related to that mentioned in paragraph (a) or (b)).

(6) If section 31 has not been brought into operation before the end of 2032 in respect of the insertion of—

(a) Condition 2 in section 20(1A) of the Pensions (No. 2) Act (Northern Ireland) 2008 (asset allocation requirement: Master Trusts), and

(b) subsection (7B) in section 26 of the Pensions (No. 2) Act (Northern Ireland) 2008 (asset allocation requirement: group personal pension schemes),

section 31 is repealed at the end of that year in respect of the insertion of those provisions.

(7) Part 3 comes into operation on such day as the Department may by order appoint.

(8) This Part comes into operation as follows—

(a) section 88 comes into operation on such day as the Department may by order appoint;

(b) sections 89 and 90 come into operation on the day on which this Act is passed;

(c) section 91 is to be treated as having come into operation on 1 April 2026;

(d) section 92 is to be treated as having come into operation on 1 April 2007;

(e) sections 93 to 97 come into operation on the day on which this Act is passed;

(f) the Schedule comes into operation on such day as the Department may by order appoint.

(9) An order under this section may include transitional or saving provision.

Short title

97. This Act may be cited as the Pension Schemes Act (Northern Ireland) 2027.

SCHEDULE

Section 93

AMENDMENTS OF PENSIONS (NORTHERN IRELAND) ORDER 2005

1. The Pensions (Northern Ireland) Order 2005 is amended as follows.

2. In Article 2 (general interpretation), in paragraph (2), at the appropriate places insert—

""key function", in relation to a superfund, has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""operating superfund" has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""operating superfund scheme" has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""responsible body", in relation to a superfund, has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""superfund" has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""superfund group" has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""superfund scheme" has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);"

""superfund transfer" has the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (see section 87 of that Act);".

3. In Article 7 (functions exercisable by the Determinations Panel), in paragraph (6), after sub-paragraph (l) insert—

"(m) section 50 of the Pension Schemes Act (Northern Ireland) 2027 (application for authorisation of a superfund);

(n) section 53 of that Act (application for approval of a superfund transfer);

(o) section 65 of that Act (application for approval of individual to be responsible for key function in relation to superfund);

(p) section 67 of that Act (application to approve a person to be a trustee of a superfund scheme).".

4. In Article 9 (improvement notices), in paragraph (7), after sub-paragraph (i) insert—

"(j) Chapter 1, 2, 4 or 5 of Part 2 of, or any provision of Part 3 of, the Pension Schemes Act (Northern Ireland) 2027.".

5. In Article 65 (duty to report breaches of the law), in paragraph (1), after sub-paragraph (f) insert—

"(g) in relation to an operating superfund—

(i) a member of the superfund group;

(ii) a person who is responsible for a key function.".

6. In Article 67 (provision of information), in paragraph (2), after sub-paragraph (c) (but before the "and" that follows it) insert—

"(ca) in relation to an operating superfund—

(i) a member of the superfund group, and

(ii) a person who is responsible for a key function,".

7.—(1) In Article 68 (inspection of premises), paragraph (2) is amended as follows.

(2) After sub-paragraph (d) insert—

"(dza) sections 28A to 28G of the Pensions (No. 2) Act (Northern Ireland) 2008 (scale and asset allocation);".

(3) After sub-paragraph (dc) insert—

"(dd) any of the following provisions of the Pension Schemes Act (Northern Ireland) 2027—

(i) Chapters 1, 2, 4 and 5 of Part 2;

(ii) Part 3;".

(4) In sub-paragraph (e), after "(db)" insert "or sub-paragraph (dd)".

8. In Article 71 (inspection of premises: supplementary), in paragraph (3)(a), after "of this Order," insert "section 79 or 80 of the Pension Schemes Act (Northern Ireland) 2027,".

9. In Article 72A (fixed penalty notices), after paragraph (6) insert—

"(7) Where the recipient of the notice is—

(a) a trustee of an operating superfund scheme,

(b) the responsible body of an operating superfund, or

(c) a person responsible for a key function in relation to an operating superfund,

paragraph (3)(b) has effect as though the figure mentioned there were £100,000.".

10. In Article 72B (escalating penalty notices), after paragraph (8) insert—

"(9) Where the recipient of the notice is—

(a) a trustee of an operating superfund scheme,

(b) the responsible body of an operating superfund, or

(c) a person responsible for a key function in relation to an operating superfund,

paragraph (5)(b) has effect as though the figure mentioned there were £20,000.".

11. In Article 75 (offences of providing false or misleading information), in paragraph (1)(c)—

(a) omit the "or" after paragraph (v);

(b) each of paragraphs (i) to (vi) becomes an unnumbered sub-paragraph;

(c) at the end insert—

"Chapter 1, 2, 4 or 5 of Part 2 of, or any provision of Part 3 of, the Pension Schemes Act (Northern Ireland) 2027".

12. In Article 75A (financial penalty for providing false or misleading information to Regulator), in paragraph (2)(c)—

(a) omit the "or" after paragraph (v);

(b) each of paragraphs (i) to (vi) becomes an unnumbered sub-paragraph;

(c) at the end insert—

"Chapter 1, 2, 4 or 5 of Part 2 of, or any provision of Part 3 of, the Pension Schemes Act (Northern Ireland) 2027".

13.—(1) Article 85 (codes of practice issued by Regulator) is amended as follows.

(2) In paragraph (2), after sub-paragraph (jd) insert—

"(je) the process for making—

(i) an application for authorisation of a superfund under Chapter 2 of Part 3 of the Pension Schemes Act (Northern Ireland) 2027;

(ii) an application for approval of a superfund transfer under Chapter 3 of that Part of that Act;

(jf) the matters that the Regulator expects to take into account in deciding—

(i) whether it is satisfied as described in section 50(1) of the Pension Schemes Act (Northern Ireland) 2027 (condition for superfund to be authorised);

(ii) whether it is satisfied as described in section 53(1)(c) of that Act ("onboarding conditions" for superfund transfers);

(jg) the discharge of the duties imposed by Chapters 4 and 5 of Part 3 of the Pension Schemes Act (Northern Ireland) 2027 (ongoing requirements for operating superfunds);".

(3) In paragraph (6), in the definition of "the pensions legislation"—

(a) after paragraph (d) insert—

"(da) sections 20, 26 and 28A to 28I of the Pensions (No. 2) Act (Northern Ireland) 2008 (scale and the asset allocation requirement),";

(b) omit the "or" before paragraph (h) and after that paragraph insert—

"(i) Chapter 1, 2, 4 or 5 of Part 2 of, or any provision of Part 3 of, the Pension Schemes Act (Northern Ireland) 2027.".

14. In Article 88 (Regulator's procedure in relation to its regulatory functions), in paragraph (2), after sub-paragraph (pe) (but before the "and" that follows it) insert—

"(pf) the power to issue a notice under section 73(1)(k) of the Pension Schemes Act (Northern Ireland) 2027 (Regulator notice triggering event of concern for superfund),

(pg) the power to give a direction under section 77 of the Pension Schemes Act (Northern Ireland) 2027 (directions in relation to superfund during period of concern),".

15. In Article 92 (special procedure: applicable cases), in paragraph (5), after sub-paragraph (tk) insert—

"(tl) the power under section 50 or 81 of the Pension Schemes Act (Northern Ireland) 2027 to withdraw authorisation from a superfund;

(tm) the power under section 65(8) or 67(8) of the Pension Schemes Act (Northern Ireland) 2027 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;

(tn) the power to issue a notice under section 73(1)(k) of the Pension Schemes Act (Northern Ireland) 2027 (Regulator notice triggering event of concern for superfund);

(to) the power to give a direction under section 77 of the Pension Schemes Act (Northern Ireland) 2027 (directions in relation to superfund during period of concern);".

16. In Article 110 (pension protection: eligible schemes), after paragraph (1A) insert—

"(1B) In relation to a superfund scheme, section 48(2) of the Pension Schemes Act (Northern Ireland) 2027 (sections treated as separate schemes) applies for the purposes of this Part as it applies for the purposes of Part 3 of the Pension Schemes Act (Northern Ireland) 2027.".

17. In Article 111 (pension protection: duty to assume responsibility for schemes following insolvency event), after paragraph (4) insert—

"(4A) In relation to an eligible scheme that is a superfund scheme, if—

(a) an event of concern takes place in relation to the scheme by virtue of the protected liabilities threshold ceasing to be met, and

(b) no qualifying insolvency event occurred in relation to the employer before the event of concern took place,

this Chapter applies as though a qualifying insolvency event had occurred in relation to the employer immediately after the event of concern took place.

(4B) In paragraph (4A), "the protected liabilities threshold" and "event of concern" have the same meaning as in Part 3 of the Pension Schemes Act (Northern Ireland) 2027.".

18. In Article 201 (the statutory funding objective), after paragraph (4) insert—

"(4A) Regulations may, in relation to a superfund scheme—

(a) provide that it is for the Regulator to determine which methods and assumptions are to be used in calculating a scheme's technical provisions, and

(b) require the Regulator, in making its determination, to take into account prescribed matters and follow prescribed principles.".

19.—(1) Article 203 (actuarial valuation and reports) is amended as follows.

(2) After paragraph (7A) insert—

"(7B) Where the scheme in question is a superfund scheme, the trustees must, as soon as reasonably practicable after receiving an actuarial report, send a copy of it to the Regulator together with such other information as may be prescribed.".

(3) In paragraph (8), for "or (7A)" substitute ", (7A) or (7B)".

20. In Article 233 (no indemnification for fines or civil penalties), in paragraph (1)(b), at the end insert ", or section 10, 24 or 43 of the Pension Schemes Act (Northern Ireland) 2027".

21.—(1) Schedule 2 (the reserved regulatory functions) is amended as follows.

(2) For the heading of Part 5 substitute "Functions under the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006 (S.R. 2006/48)".

(3) Parts 4A and 4B are moved to after Part 5 and are renumbered as (respectively) Parts 6 and 7.

(4) Accordingly, paragraphs 44A to 44O are renumbered as (respectively) paragraphs 46 to 60.

(5) After Part 7 (as moved and renumbered by sub-paragraph (3) above) insert—

"PART 8

FUNCTIONS UNDER THE PENSION SCHEMES ACT (NORTHERN IRELAND) 2027

61. The power under section 50(1) to authorise a superfund.

62. The power under section 50(6) to withdraw authorisation from a superfund that has not yet received a superfund transfer.

63. The power under section 53 to approve a superfund transfer.

64. The power under section 65(1) to approve an individual to be responsible for a key function.

65. The power under section 65(8) to suspend or revoke an individual's approval to be responsible for a key function.

66. The power under section 67(1) to approve a person to be a trustee of a superfund scheme.

67. The power under section 67(8) to suspend or revoke a person's approval to be a trustee of a superfund scheme.

68. The power under section 81 to withdraw authorisation from an operating superfund.".

Pension Schemes Bill

[AS INTRODUCED]

A Bill to make provision about pension schemes; and for connected purposes.

Introduced by:	Mr Gordon Lyons, Minister for Communities
On:	09 November 2026
Bill Type:	Executive Bill

ACCOMPANYING DOCUMENTS
An Explanatory and Financial Memorandum is printed separately as NIA Bill 48/22-27 EFM.



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