



Department
for Work &
Pensions

Pensions Bill 2013-14

Keeling Versions

December 2013

This document is provided to assist in the scrutiny of the Pensions Bill 2013-14 and is for illustrative purposes only.

It is based on the print of the Bill as introduced into the House of Lords on 30 October 2013.

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Introduction

1. The Pensions Bill was introduced in the House of Commons on 9 May 2013. Following scrutiny by the House of Commons, the Bill was given its First Reading in the House of Lords on 30 October 2013.
2. The current Bill contains measures to:
 - reform the state pension system through the introduction of a single-tier state pension;
 - manage future changes to the State Pension age including bringing forward the increase in State Pension age to 67;
 - abolish the provision that removes the requirement for Pension Credit customers to notify changes of circumstances;
 - reform the range of benefits associated with bereavement through the introduction of the new Bereavement Support Payment;
 - boost the consolidation of small pension pots through a system of automatic transfers;
 - provide a power to exclude certain types of workers from automatic enrolment;
 - extend powers to set minimum quality requirements for workplace pension schemes and to limit or prohibit charges;
 - introduce a new statutory objective for the Pensions Regulator;
 - restructure the PPF compensation cap to better protect long serving scheme members; and
 - strengthen existing legislation relating to occupational pensions.
3. This document shows the changes to existing legislation that would result from the Bill and has been produced to assist in its scrutiny. Please note, it is not an exhaustive account of all changes to enactments resulting from the entirety of the Pensions Bill. Rather, it is designed to help the reader understand the effect of such changes where it is not immediately apparent. It is based on the print of the Bill as introduced to the House of Lords.

Note on formatting

Where the provisions of the draft Bill would result in legislation or parts of legislation being repealed, this is shown using struck-through font. Example:

~~(1) A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder who is not in contracted-out employment if it satisfies the test scheme standard in relation to that jobholder.~~

Where the provisions add to existing legislation, these are shown in bold red font. Example:

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

PART 2 – Pensionable age

Clause 25 – Increase in pensionable age to 67

Amends Schedule 4 of the Pensions Act 1995 as follows:

SCHEDULE 4

EQUALISATION OF AND INCREASE IN PENSIONABLE AGE FORMEN AND WOMEN

PART I

PENSIONABLE AGES FOR MEN AND WOMEN

Rules for determining pensionable age

1. The following rules apply for the purposes of the enactments relating to social security, that is, the following Acts and the instruments made, or having effect as if made, under them: the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992, the Pension Scheme Act 1993 (c. 48), the State Pension Credit Act 2002 and Part I of the Welfare Reform Act 2007

Rules

- (1) A man born before 6th December 1953 attains pensionable age when he attains the age of 65 years.
- (2) A woman born before 6th April 1950 attains pensionable age when she attains the age of 60.
- (3) A woman born on any day in a period mentioned in column 1 of Table 1 attains pensionable age at the commencement of the day shown against that period in column 2.

TABLE 1

| (1) Period within which woman's birthday falls | (2) Day pensionable age attained |
|---|-------------------------------------|
| 6th April 1950 to 5th May 1950 | 6th May 2010 |
| 6th May 1950 to 5th June 1950 | 6th July 2010 |
| 6th June 1950 to 5th July 1950 | 6th September 2010 |
| 6th July 1950 to 5th August 1950 | 6th November 2010 |
| 6th August 1950 to 5th September 1950 | 6th January 2011 |
| 6th September 1950 to 5th October 1950 | 6th March 2011 |
| 6th October 1950 to 5th November 1950 | 6th May 2011 |
| 6th November 1950 to 5th December 1950 | 6th July 2011 |
| 6th December 1950 to 5th January 1951 | 6th September 2011 |
| 6th January 1951 to 5th February 1951 | 6th November 2011 |
| 6th February 1951 to 5th March 1951 | 6th January 2012 |
| 6th March 1951 to 5th April 1951 | 6th March 2012 |
| 6th April 1951 to 5th May 1951 | 6th May 2012 |
| 6th May 1951 to 5th June 1951 | 6th July 2012 |
| 6th June 1951 to 5th July 1951 | 6th September 2012 |
| 6th July 1951 to 5th August 1951 | 6th November 2012 |
| 6th August 1951 to 5th September 1951 | 6th January 2013 |

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TABLE (CONT)

| | |
|--|--------------------|
| 6th September 1951 to 5th October 1951 | 6th March 2013 |
| 6th October 1951 to 5th November 1951 | 6th May 2013 |
| 6th November 1951 to 5th December 1951 | 6th July 2013 |
| 6th December 1951 to 5th January 1952 | 6th September 2013 |
| 6th January 1952 to 5th February 1952 | 6th November 2013 |
| 6th February 1952 to 5th March 1952 | 6th January 2014 |
| 6th March 1952 to 5th April 1952 | 6th March 2014 |
| 6th April 1952 to 5th May 1952 | 6th May 2014 |
| 6th May 1952 to 5th June 1952 | 6th July 2014 |
| 6th June 1952 to 5th July 1952 | 6th September 2014 |
| 6th July 1952 to 5th August 1952 | 6th November 2014 |
| 6th August 1952 to 5th September 1952 | 6th January 2015 |
| 6th September 1952 to 5th October 1952 | 6th March 2015 |
| 6th October 1952 to 5th November 1952 | 6th May 2015 |
| 6th November 1952 to 5th December 1952 | 6th July 2015 |
| 6th December 1952 to 5th January 1953 | 6th September 2015 |
| 6th January 1953 to 5th February 1953 | 6th November 2015 |
| 6th February 1953 to 5th March 1953 | 6th January 2016 |
| 6th March 1953 to 5th April 1953 | 6th March 2016 |
| 6th April 1953 to 5th May 1953 | 6th May 2016 |
| 6th May 1953 to 5th June 1953 | 6th July 2016 |
| 6th June 1953 to 5th July 1953 | 6th November 2016 |
| 6th July 1953 to 5th August 1953 | 6th March 2017 |
| 6th August 1953 to 5th September 1953 | 6th July 2017 |
| 6th September 1953 to 5th October 1953 | 6th November 2017 |
| 6th October 1953 to 5th November 1953 | 6th March 2018 |
| 6th November 1953 to 5th December 1953 | 6th November 2018 |

- (5) A person born on any day in a period mentioned in column 1 of table 2 attains pensionable age at the commencement of the day shown against that period in column 2.

TABLE 2

| (1) | (2) |
|---------------------------------------|------------------------------|
| Period within which birthday falls | Day pensionable age attained |
| 6th December 1953 to 5th January 1954 | 6th March 2019 |
| 6th January 1954 to 5th February 1954 | 6th May 2019 |
| 6th February 1954 to 5th March 1954 | 6th July 2019 |
| 6th March 1954 to 5th April 1954 | 6th September 2019 |
| 6th April 1954 to 5th May 1954 | 6th November 2019 |

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TABLE (CONT)

| | |
|--|--------------------|
| 6th May 1954 to 5th June 1954 | 6th January 2020 |
| 6th June 1954 to 5th July 1954 | 6th March 2020 |
| 6th July 1954 to 5th August 1954 | 6th May 2020 |
| 6th August 1954 to 5th September 1954 | 6th July 2020 |
| 6th September 1954 to 5th October 1954 | 6th September 2020 |

- (6) A person born after 5th October 1954 but before ~~6th April 1968~~ **6th April 1960** attains pensionable age when the person attains the age of 66.
- ~~(7) A person born on any day in a period mentioned in column 1 of table 3 attains pensionable age at the commencement of the day shown against that period in column 2.~~

TABLE 3

| (1) Period within which birthday falls | (2) Day pensionable age attained |
|---|-------------------------------------|
| 6th April 1968 to 5th May 1968 | 6th May 2034 |
| 6th May 1968 to 5th June 1968 | 6th July 2034 |
| 6th June 1968 to 5th July 1968 | 6th September 2034 |
| 6th July 1968 to 5th August 1968 | 6th November 2034 |
| 6th August 1968 to 5th September 1968 | 6th January 2035 |
| 6th September 1968 to 5th October 1968 | 6th March 2035 |
| 6th October 1968 to 5th November 1968 | 6th May 2035 |
| 6th November 1968 to 5th December 1968 | 6th July 2035 |
| 6th December 1968 to 5th January 1969 | 6th September 2035 |
| 6th January 1969 to 5th February 1969 | 6th November 2035 |
| 6th February 1969 to 5th March 1969 | 6th January 2036 |
| 6th March 1969 to 5th April 1969 | 6th March 2036 |

- (7) A person born on any day in a period mentioned in column 1 of table 3 attains pensionable age when the person attains the age shown against that period in column 2.**

TABLE 3

| (1) Period within which birthday falls | (2) Age pensionable age attained |
|---|-------------------------------------|
| 6th April 1960 to 5th May 1960 | 66 years and 1 month |
| 6th May 1960 to 5th June 1960 | 66 years and 2 month |
| 6th June 1960 to 5th July 1960 | 66 years and 3 month |
| 6th July 1960 to 5th August 1960 | 66 years and 4 month |
| 6th August 1960 to 5th September 1960 | 66 years and 5 month |
| 6th September 1960 to 5th October 1960 | 66 years and 6 month |
| 6th October 1960 to 5th November 1960 | 66 years and 7 month |

TABLE (CONT)

| | |
|---|------------------------------|
| 6th November 1960 to 5th December 1960 | 66 years and 8 month |
| 6th December 1960 to 5th January 1961 | 66 years and 9 month |
| 6th January 1961 to 5th February 1961 | 66 years and 10 month |
| 6th February 1961 to 5th March 1961 | 66 years and 11 month |

(7A) For the purposes of table 3 –

- (a) A person born on 31st July 1960 is to be taken to attain the age of 66 years and 4 months at the commencement of 30th November 2026;**
 - (b) A person born on 31st December 1960 is to be taken to attain the age of 66 years and 9 months at the commencement of 30th September 2027;**
 - (c) A person born on 31st January 1961 is to be taken to attain the age of 66 years and 10 months at the commencement of 30th November 2027.**
- (8) A person born after ~~5th April 1969~~ **5th March 1961** but before 6th April 1977 attains pensionable age when the person attains the age of 67.
- (9) A person born on any day in a period mentioned in column 1 of table 4 attains pensionable age at the commencement of the day shown against that period in column 2.

TABLE 4

| (1) Period within which birthday falls | (2) Date pensionable age attained |
|---|--------------------------------------|
| 6th April 1977 to 5th May 1977 | 6th May 2044 |
| 6th May 1977 to 5th June 1977 | 6th July 2044 |
| 6th June 1977 to 5th July 1977 | 6th September 2044 |
| 6th July 1977 to 5th August 1977 | 6th November 2044 |
| 6th August 1977 to 5th September 1977 | 6th January 2045 |
| 6th September 1977 to 5th October 1977 | 6th March 2045 |
| 6th October 1977 to 5th November 1977 | 6th May 2045 |
| 6th November 1977 to 5th December 1977 | 6th July 2045 |
| 6th December 1977 to 5th January 1978 | 6th September 2045 |
| 6th January 1978 to 5th February 1978 | 6th November 2045 |
| 6th February 1978 to 5th March 1978 | 6th January 2046 |
| 6th March 1978 to 5th April 1978 | 6th March 2046 |

- (10) A person born after 5th April 1978 attains pensionable age when the person attains the age of 68.

PART 3 – State Pension Credit

Clause 27 – State pension credit: phasing out assessed income periods

Amends section 6 of the State Pension Credit Act 2002 as follows:

6 Duty to specify assessed income period for pre-6 April 2016 awards

- (1) In any case falling within subsection (3) or (4) **where the relevant decision takes effect before 6 April 2016**, the Secretary of State shall, on the making of the relevant decision, specify a period as the assessed income period, unless prevented by subsection (2).
- (2) The Secretary of State is prevented from specifying a period as the assessed income period under subsection (1)–
 - (a) if the relevant decision takes effect at a time when an assessed income period is in force in the case of the claimant by virtue of a previous application of this section; or
 - (b) in such other circumstances as may be prescribed.
- (3) The first case is where–
 - (a) the Secretary of State determines the amount of a claimant’s income for the purposes of a decision relating to state pension credit;
 - (b) the decision is a decision under section 8(1), 9 or 10 of the Social Security Act 1998 (c. 14) (decisions on claims etc, and decisions revising or superseding decisions);
 - (c) the decision takes effect on or after–
 - (i) the day on which the claimant attains the age of 65; or
 - (ii) if earlier, in a case where the claimant is a member of a [1couple], the day on which the other member of the couple attains that age; and
 - (d) the decision is not to the effect that the claimant is not entitled to state pension credit.
- (4) The second case is where–
 - (a) the amount of the claimant’s income is determined on, or for the purposes of, an appeal against a decision that the claimant is not entitled to state pension credit;
 - (b) on the appeal, it is decided that the claimant is entitled to state pension credit; and
 - (c) the decision takes effect as mentioned in subsection (3)(c).
- (5) In this section “the relevant decision” means–
 - (a) so far as relating to the first case, the decision mentioned in subsection (3)(a);
 - (b) so far as relating to the second case, the decision on appeal mentioned in subsection (4)(b).
- (6) This section is subject to section 9.
- (7) This section and sections 7 to 10 shall be construed as one.

PART 5 – Private pensions

Clause 35 – Short service benefits for scheme member with money purchase benefits

Amends sections 71 & 101AA of the Pension Schemes Act 1993 as follows:

71 Basic principle as to short service benefit

- (1) A scheme must make such provision that where a member's pensionable service is terminated before normal pension age and—
 - (a) he has at least 2 years' qualifying service,
 - (aa) he has at least 30 days' qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be money purchase benefit, or**
 - (b) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme,he is entitled to benefit consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or others, and calculated in accordance with this Chapter.
- (2) The benefit to which a member is entitled under subsection (1) is referred to in this Act as "short service benefit".
- (3) Subject to subsection (4), short service benefit must be made payable as from an age which is no greater than—
 - (a) the age of 65, or
 - (b) if in the member's case normal pension age is greater than 65, normal pension age.
- (4) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time after it as long service benefit payable on or in respect of his death would be payable.
- (5) In applying subsections (3) and (4), no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.
- (6) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.
- (7) In subsection (1) "2 years qualifying service" means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either—
 - (a) in pensionable service under the scheme; or
 - (b) in service in employment which was contracted-out by reference to the scheme; or
 - (c) in linked qualifying service under another scheme.
- (8) For the purposes of subsection (7), no regard shall be had to whether or not the service was of the same description in the whole of the 2 years.
- (9) A period of service previously terminated is not to count towards the 2 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.
- (10) Subsections (7) to (9) apply, with the substitution for references to 2 years of references to 30 days, for determining whether a person has at least 30 days' qualifying service for the purposes of subsection (1).**

- (11) Subsection (1)(aa) does not apply in relation to a person's membership of a scheme if any period of relevant service began before the day on which section 35 of the Pensions Act 2013 came into force (whether or not it also ended before that date).**

“Relevant service” means service that counts towards the 30 days' qualifying service for the purposes of subsection (1).

101AA Early leavers: cash transfer sums and contribution refunds

- (1) This Chapter applies to any member of an occupational pension scheme to which Chapter 1 applies (see section 69(3)) if –
- (a) his pensionable service terminates before he attains normal pension age, and
 - (b) on the date on which his pensionable service terminates –
 - (i) the three month condition is satisfied, but
 - (ii) he does not have relevant accrued rights to benefit under the scheme.
- (2) For the purposes of subsection (1), the three month condition is that the period of the member's pensionable service under the scheme, taken together with –
- (a) any previous period of his pensionable service under the scheme, and
 - (b) any period throughout which he was employed in linked qualifying service under another scheme,
- amounts to at least three months.
- (3) A period counts for the purposes of paragraph (a) or (b) of subsection (2) only so far as it counts towards qualification for long service benefit within the meaning of Chapter 1.
- (4) For the purposes of subsection (1), “relevant accrued rights to benefit under the scheme”, in relation to a member of a scheme, means rights which –
- (a) have accrued to or in respect of him under the scheme, and
 - (b) entitle him to the relevant benefits which would have accrued to or in respect of him under the applicable rules if paragraphs (a), **(aa)** and b of section 71(1) (and the word “and” immediately preceding them) did not have effect.
- (5) References in the following provisions of this Chapter to a member, in relation to an occupational pension scheme, are to a member of the scheme to whom this Chapter applies.

Clause 36(2) – Automatic re-enrolment: exceptions where automatic enrolment deferred

Amends section 5 of the Pensions Act 2008 as follows:

5 Automatic enrolment

- (1) This section applies to a jobholder –
- (a) who is aged at least 22,
 - (b) who has not reached pensionable age, and
 - (c) to whom earnings of more than £9,440 are payable by the employer in the relevant pay reference period (see section 15).
- (1A) This section also applies to a jobholder who –
- (a) is aged at least 22,
 - (b) has not reached pensionable age, and
 - (c) is not an active member of a qualifying scheme because there has been a period beginning at any time after the jobholder's automatic enrolment date during which the requirements of section 1(1)(a) or (c) were not met (so that the person was not a jobholder for that period).
- (1B) This section also applies to a jobholder who has ceased to be an active member of a qualifying scheme because of something other than an action or omission by the jobholder.
- (2) The employer must make prescribed arrangements by which the jobholder becomes an active member of an automatic enrolment scheme with effect from the automatic re-enrolment date.
- (3) Subsection (2) does not apply if the jobholder was an active member of a qualifying scheme on the automatic re-enrolment date.
- (3A) Subsection (2) does not apply if the jobholder's automatic enrolment date is deferred under section 4 from a date before the automatic re-enrolment date to a date after the automatic re-enrolment date**
- (4) Regulations may provide for subsection (2) not to apply in relation to a jobholder who in prescribed circumstances –
- (a) has ceased to be an active member of a qualifying scheme because of any action or omission by the jobholder, or by the employer at the jobholder's request, or
 - (b) is treated as not being an active member of a qualifying scheme because the jobholder has given notice under section 8.
- (5) *Repealed under previous legislation.*
- (6) For the purposes of arrangements under subsection (2) regulations may require information to be provided to any person by the employer or –
- (a) where the arrangements relate to an occupational pension scheme, the trustees or managers of the scheme;
 - (b) where the arrangements relate to a personal pension scheme, the provider of the scheme.
- (7) For the purposes of arrangements made under subsection (2) in relation to a personal pension scheme, regulations may deem an agreement to exist (subject to section 8) between the jobholder and the provider of the scheme for the jobholder to be an active member of the scheme on terms and conditions determined in accordance with the regulations.
- (7A) In this section "earnings" has the meaning given in section 13(3).

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- (7B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.
- (8) Automatic re-enrolment dates are dates that are to be determined in accordance with regulations.

Clause 36(3) – Automatic re-enrolment: exceptions where automatic enrolment deferred and clause 38 – Automatic enrolment: transitional period for hybrid schemes

Amends section 30 of the Pensions Act 2008 as follows:

NB: the underlined red font section denotes changes made by Clause 36(3).
The remaining changes are all made by clause 38

30 Transitional period for defined benefits and hybrid schemes

- (1) Subsection (3) applies if, in relation to a person who on the employer's first enrolment date is a jobholder to whom section 3 applies, the conditions in subsection (2) are satisfied, and continue to be satisfied during the transitional period for defined benefits and hybrid schemes.
- (2) The conditions are that—
- (a) the jobholder has been employed by the employer for a continuous period beginning before the employer's first enrolment date,
 - (b) at a time in that period before the employer's first enrolment date, the jobholder became entitled to become an active member of a defined benefits scheme or a ~~hybrid scheme~~ **a defined benefits member of a hybrid scheme,**
 - (c) the jobholder is, and has always since that time been, entitled to become an active member of a defined benefits scheme or a ~~hybrid scheme~~ **a defined benefits member of a hybrid scheme,** and
 - (d) the scheme to which that entitlement relates is a qualifying scheme, and any scheme to which it has related on or after the employer's first enrolment date has been a qualifying scheme.
- (3) If by the end of the prescribed period the employer has given the jobholder notice that the employer intends to defer automatic enrolment until the end of the transitional period for defined benefits and hybrid schemes, section 3 has effect in relation to the jobholder with the substitution for subsection (2) of the following subsection—
- “(2) The employer must make prescribed arrangements by which the jobholder becomes
- (a) an active member, with effect from the end of the transitional period for defined benefits and hybrid schemes, of an automatic enrolment scheme which is a defined benefits scheme or a ~~hybrid scheme~~, **or**
 - (b) **a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a hybrid scheme.”**
- (4) If a notice is given under subsection (3) and at any later time] in the transitional period for defined benefits and hybrid schemes the condition in subsection (2)(c) or (d) of this section ceases to be satisfied, subsection (5) applies instead of subsection (3) (and the day after the last day on which that condition is satisfied is referred to as “the closure date”).
- (5) Where this subsection applies, section 3 has effect in relation to the jobholder with the substitution for subsection (2) of the following subsection—
- “(2) The employer must make prescribed arrangements by which the jobholder either—
- (a) becomes an active member, with effect from the closure date, of an automatic enrolment scheme which is a defined benefits scheme or a ~~hybrid scheme~~ **becomes a defined benefits member, with effect from that date, of an automatic enrolment scheme which is a hybrid scheme,** or

- (b) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a money purchase scheme or personal pension scheme **or becomes a money purchase member, with effect from that date, of an automatic enrolment scheme which is a hybrid scheme.**
- (6) If the jobholder becomes a member of a scheme under arrangements made under subsection (2)(b) of that section (as substituted by subsection (5)) –
- (a) the employer’s contributions are payable with effect from the automatic enrolment date;
 - (b) any requirement of the scheme for contributions to be payable by the jobholder does not apply in respect of the period of the jobholder’s membership before the closure date;
 - (c) regulations made for the purposes of section 3(2)(b) must secure that the jobholder may pay, within a period prescribed by the regulations, any contributions which would have been payable by the jobholder but for paragraph (b) of this subsection.
- (7) Where subsection (3) or (5) of this section applies –
- (a) section 3(3) and (4) apply as if references to the automatic enrolment date were references to the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder,
 - (b) section 4 applies as if –
 - (i) the reference in subsection (1) to the employer’s staging date were a reference to the employer’s first enrolment date;
 - (ii) in that subsection, for “the worker’s automatic enrolment date in the deferral date” there were substituted “the day with effect from which arrangements fall to be made by virtue of section 30 in respect of the jobholder is changed to the deferral date”;
 - (iii) in subsections (4) to (6), references to the starting day were references to the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder;
- (c) section 5(2) does not apply in relation to an automatic re-enrolment date that falls before the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder**
- (7A) The Secretary of State may by regulations make provision about the form and content of a notice under subsection (3).
8. The transitional period for defined benefits and hybrid schemes is a prescribed period beginning with the day on which section 3 comes into force.
9. In this section, the “employer’s first enrolment date” means the first day on which section 3 applies in the case of the employer (where that day falls within the transitional period for defined benefits and hybrid schemes).
- (10) For the purposes of this section –**
- (a) a person is a “money purchase member” of a hybrid scheme if –**
 - (i) the person is an active member of the scheme, and**
 - (ii) all the benefits accruing in respect of his or her membership are money purchase benefits, and**
 - (b) a person is a “defined benefits member” of a hybrid scheme if the person is an active member of the scheme other than a money purchase member.**

Clause 37(1) – Automatic enrolment: powers to create general exceptions

Amends section 10 of the Pension Act 2008 as follows:

10 Information to be given to workers

- (1) The Secretary of State ~~must~~ **may** make provision by regulations—
- (a) for ~~all~~-jobholders to be given information about the effect of sections 2 to 8 in relation to them;
 - (b) for ~~all~~-workers to whom section 9 applies to be given information about the effect of that section in relation to them;
 - (c) for a prescribed person to be required to provide the information.
- (2) Regulations under this section ~~must state~~ **may in particular make provision about** —
- (a) what information must be given;
 - (b) in what circumstances it must be given;
 - (c) how and when it must be given.

SCHEDULE 11 – Pension Sharing: Amendments

Schedule 11, Paragraph 5

Amend section 55A of the Social Security Contributions and Benefits Act 1992 as follows:

55A Shared additional pension because of an old state scheme credit

- ~~(1) A person shall be entitled to a shared additional pension if he is—~~
- ~~(a) over pensionable age, and~~
 - ~~(b) entitled to a state scheme pension credit.~~
- (1) A person is entitled to a shared additional pension under this section if—**
- (a) the person attained pensionable age before 6 April 2016, and**
 - (b) the person is entitled to an old state scheme pension credit**
- (2) A person's entitlement to a shared additional pension **under this section** shall continue throughout his life.
- (3) The weekly rate of a shared additional pension **under this section** shall be the appropriate weekly amount, unless the pensioner's entitlement to the **old** state scheme pension credit arose before the final relevant year, in which case it shall be that amount multiplied by the relevant revaluation percentage.
- (4) The appropriate weekly amount for the purposes of subsection (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pensioner's entitlement, or prospective entitlement, to the shared additional pension is equal to the **old** state scheme pension credit.
- (5) The relevant revaluation percentage for the purposes of that subsection is the percentage specified, in relation to earnings factors for the tax year in which the entitlement to the **old** state scheme pension credit arose, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (6) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (6A) The power conferred by subsection (6) above includes power to provide –
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
 - (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.
- (7) In this section –
- “final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;
- “**old** state scheme pension credit” means a credit under section 49(1)(b) of the Welfare Reform and Pensions Act 1999 (credit for the purposes of this Part of this Act);
- “valuation day” means the day on which the pensioner becomes entitled to the state scheme pension credit.

Schedule 11, Paragraph 7

Amends section 55B of the Social Security Contributions and Benefits Act 1992 as follows:

55B Reduction of shared additional pension: pension sharing

- (1) The weekly rate of a shared additional pension shall be reduced as follows in any case where –
 - (a) the pensioner has become subject to a **an old** state scheme pension debit, and
 - (b) the debit is to any extent referable to the pension.
- (2) If the pensioner became subject to the debit in or after the final relevant year, the weekly rate of the pension shall be reduced by the appropriate weekly amount.
- (3) If the pensioner became subject to the debit before the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount multiplied by the relevant revaluation percentage.
- (4) The appropriate weekly amount for the purposes of subsections (2) and (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pension mentioned in subsection (5) below is equal to so much of the debit as is referable to the shared additional pension.
- (5) The pension referred to above is a notional pension for the pensioner by virtue of section ~~55A above~~ **55A or 55AA (as the case may be)** which becomes payable on the later of –
 - (a) his attaining pensionable age, and
 - (b) the valuation day.
- (6) For the purposes of subsection (3) above, the relevant revaluation percentage is the percentage specified, in relation to earnings factors for the tax year in which the pensioner became subject to the debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (7A) The power conferred by subsection (7) above includes power to provide –
 - (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
 - (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.
- (8) In this section –

"final relevant year" means the tax year immediately preceding that in which the pensioner attains pensionable age;

"old state scheme pension debit", means a debit under section 49(1)(a) of the Welfare Reform and Pensions Act 1999 (debit for the purposes of this Part of this Act);

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

Schedule 11, Paragraph 10

Amends section 47 of the Welfare Reform and Pensions Act 1999 as follows:

47 Shareable state scheme rights

(1) Pension sharing is available under this Chapter in relation to a person's shareable state scheme rights.

(1A) For the purposes of this Chapter, a person's shareable state scheme rights are –

(a) the person's shareable old state scheme rights;

(b) the person's shareable new state scheme rights.

(2) For the purposes of this Chapter, a person's shareable **old** state scheme rights are –

(a) his entitlement, or prospective entitlement, to a Category A retirement pension by virtue of section 44(3)(b) of the Contributions and Benefits Act (earnings-related additional pension), and

(b) his entitlement, or prospective entitlement, to a pension under section 55A **or 55AA** of that Act (shared additional pension).

(3) For the purposes of this Chapter, a person's shareable new state scheme rights are the person's entitlement, or prospective entitlement, to the excess amount in a state pension under section 4 of the Pensions Act 2013.

(4) "The excess amount", in relation to a state pension under section 4 of the Pensions Act 2013, means any amount by which the rate of the pension exceeds the full rate of the state pension (see section 3 of that Act).

(5) In determining the rate of a state pension under section 4 of the Pensions Act 2013 for the purposes of this Chapter, ignore Schedule 6 to that Act (reduced rate elections: effect on rate of section 4 pension)."

Schedule 11, Paragraph 11

Amends section 48 of the Welfare Reform and Pensions Act 1999 as follows:

48 Activation of benefit sharing

- (1) ~~Section 49 applies on the taking effect of any of the following relating to a person's shareable state scheme rights~~ **Section 49 or 49A applies where any of the following has taken effect in relation to a person's shareable state scheme rights –**
- (a) a pension sharing order under the Matrimonial Causes Act 1973, (aa) a pension sharing order under Schedule 5 to the Civil Partnership Act 2004,
 - (b) provision which corresponds to the provision which may be made by such an order and which –
 - (i) is contained in a qualifying agreement between the parties to a marriage, and
 - (ii) takes effect on the dissolution of the marriage under the Family Law Act 1996,
 - (c) provision which corresponds to the provision which may be made by such an order and which –
 - (i) is contained in a qualifying agreement between the parties to a marriage or former marriage, and
 - (ii) takes effect after the dissolution of the marriage under the Family Law Act 1996,
 - (d) an order under Part III of the Matrimonial and Family Proceedings Act 1984 (financial relief in England and Wales in relation to overseas divorce etc) corresponding to such an order as is mentioned in paragraph (a),
 - (da) an order under Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),
 - (e) a pension sharing order under the Family Law (Scotland) Act 1985,
 - (f) provision which corresponds to the provision which may be made by such an order and which–
 - (i) is contained in a qualifying agreement between the parties to a marriage or between persons who are civil partners of each other,
 - (ii) is in such form as the Secretary of State may prescribe by regulations, and
 - (iii) takes effect on the grant, in relation to the marriage, of decree of divorce under the Divorce (Scotland) Act 1976 or of declarator of nullity or (as the case may be) on the grant, in relation to the civil partnership, of decree of dissolution or of declarator of nullity,
 - (g) an order under Part IV of the Matrimonial and Family Proceedings Act 1984 (financial relief in Scotland in relation to overseas divorce etc) or under Schedule 11 to the 2004 Act (financial provision in Scotland after overseas proceedings) corresponding to such an order as is mentioned in paragraph (e),
 - (h) a pension sharing order under the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)),
 - (i) an order under Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland in relation to overseas divorce etc) corresponding to such an order as is mentioned in paragraph (h).
 - (j) a pension sharing order under Schedule 15 to the 2004 Act, and

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- (k) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc of a civil partnership) corresponding to such an order as is mentioned in paragraph (j).
- (2) For the purposes of subsection (1)(b) and (c), a qualifying agreement is one which –
 - (a) has been entered into in such circumstances as the Lord Chancellor may prescribe by regulations, and
 - (b) satisfies such requirements as the Lord Chancellor may so prescribe.
- (3) For the purposes of subsection (1)(f), a qualifying agreement is one which –
 - (a) has been entered into in such circumstances as the Secretary of State may prescribe by regulations, and
 - (b) is registered in the Books of Council and Session.
- (4) Subsection (1)(b) does not apply if the provision relates to rights which are the subject of a pension sharing order under the Matrimonial Causes Act 1973 in relation to the marriage.
- (5) Subsection (1)(c) does not apply if –
 - (a) the marriage was dissolved by an order under section 3 of the Family Law Act 1996 (divorce not preceded by separation) and the satisfaction of the requirements of section 9(2) of that Act (settlement of future financial arrangements) was a precondition to the making of the order,
 - (b) the provision relates to rights which are the subject of a pension sharing order under the Matrimonial Causes Act 1973 in relation to the marriage, or
 - (c) shareable state scheme rights have already been the subject of pension sharing between the parties.
- (6) For the purposes of this section, an order or provision falling within subsection (1)(e), (f) or (g) shall be deemed never to have taken effect if the Secretary of State does not receive before the end of the period of 2 months beginning with the relevant date –
 - (a) copies of the relevant documents, and
 - (b) such information relating to the transferor and transferee as the Secretary of State may prescribe by regulations under section 34(1)(b)(ii).
- (7) The relevant date for the purposes of subsection (6) is –
 - (a) in the case of an order or provision falling within subsection (1)(e) or (f), the date of the extract of the decree or declarator responsible for the divorce, dissolution or annulment to which the order or provision relates, and
 - (b) in the case of an order falling within subsection (1)(g), the date of disposal of the application under section 28 of the Matrimonial and Family Proceedings Act 1984 or, where the order is under Schedule 11 to the 2004 Act, the date of disposal of the application under paragraph 2 of that Schedule.
- (8) The reference in subsection (6)(a) to the relevant documents is –
 - (a) in the case of an order falling within subsection (1)(e) or (g), to copies of the order and the order, decree or declarator responsible for the divorce, dissolution or annulment to which it relates, and
 - (b) in the case of provision falling within subsection (1)(f), to –
 - (i) copies of the provision and the order, decree or declarator responsible for the divorce, dissolution or annulment to which it relates, and
 - (ii) documentary evidence that the agreement containing the provision is one to which subsection (3)(a) applies.
- (9) The Court of Session or the sheriff may, on the application of any person having an interest, make an order –

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- (a) extending the period of 2 months referred to in subsection (6), and
- (b) if that period has already expired, providing that, if the Secretary of State receives the documents and information concerned before the end of the period specified in the order, subsection (6) is to be treated as never having applied.

Schedule 11, Paragraph 12

Amends section 49 of the Welfare Reform and Pensions Act 1999 as follows:

49 Creation of state scheme pension debits and credits: transferor in old state pension system or pension sharing activated before 6 April 2016.

~~(1) On the application of this section—~~

- ~~(a) the transferor becomes subject, for the purposes of Part II of the Contributions and Benefits Act (contributory benefits), to a debit of the appropriate amount, and~~
- ~~(b) the transferee becomes entitled, for those purposes, to a credit of that amount.~~

(A1) This section applies if—

- (a) the transferor is in the old state pension system, or**
- (b) the transferor is in the new state pension system but the transfer day was before 6 April 2016.**

(1) Where this section applies because of a relevant order or provision—

- (a) the transferor is subject, for the purposes of the relevant state pension legislation, to a debit of the appropriate amount, and**
- (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of that amount**

(2) Where the relevant order or provision specifies a percentage value to be transferred, the appropriate amount for the purposes of subsection (1) is the specified percentage of the cash equivalent on the transfer day of the transferor's shareable **old** state scheme rights immediately before that day.

(3) Where the relevant order or provision specifies an amount to be transferred, the appropriate amount for the purposes of subsection (1) is the lesser of —

- (a) the specified amount, and
- (b) the cash equivalent on the transfer day of the transferor's ~~relevant~~ **shareable old** state scheme rights immediately before that day.

(4) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(4A) The power conferred by subsection (4) above includes power to provide —

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.

(5) In determining prospective entitlement to a Category A retirement pension for the purposes of this section, only tax years before that in which the transfer day falls shall be taken into account.

(5A) The fact that a person who reaches pensionable age on or after 6 April 2016 is not entitled to a pension of the kind mentioned in section 47(2)(a) or (b) does not affect the calculation under this section of the appropriate amount by reference to the transferor's prospective entitlement, immediately before the transfer day, to a pension of that kind.

(6) In this section —

“relevant order or provision” means the order or provision by virtue of which this section applies;

“the relevant state pension legislation” —

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- (a) in relation to a transferor or transferee in the old state pension system means Part 2 of the Contributions and Benefits Act and**
- (b) in relation to a transferor or transferee in the new state pension system, means Part 1 of the Pensions Act 2013.**

"transfer day" means the day on which the relevant order or provision takes effect;

"transferor" means the person to whose rights the relevant order or provision relates;

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

Schedule 11, Paragraph 14

Amends section 51 of the Welfare Reform and Pensions Act 1999 as follows:

51 Interpretation

In this Chapter -

- (1) ~~“Shareable state scheme rights”~~ **“Shareable state scheme rights” and related expressions have the meaning given by section 47;** and
- “tax year” has the meaning given by section 122(1) of the Contributions and Benefits Act.
- (2) **For the purposes of this Chapter—**
- (a) **a person is in the old state pension system if the person reached pensionable age before 6 April 2016 (or would have done so if the person had lived until pensionable age), and**
 - (b) **a person is in the new state pension system if the person reached pensionable age on or after 6 April 2016 (or will do so if the person lives until pensionable age).”**

SCHEDULE 12 – State Pension: Amendments

Part 1: AMENDMENTS TO DO WITH NEW STATE PENSION SYSTEM

Schedule 12, Paragraph 3

Amends section 22 of the Social Security Contributions and Benefits Act 1992 as follows:

22 Earnings Factors

- (1) A person shall, for the purposes specified in subsection (2) below, be treated as having annual earnings factors derived—
- (a) in the case of 1987-88 or any subsequent tax year, from so much of his earnings as did not exceed the upper earnings limit and upon which primary Class 1 contributions have been paid or treated as paid and from Class 2 and Class 3 contributions; and
 - (b) in the case of any earlier tax year, from his contributions of any of Classes 1, 2 and 3;
- but subject to the following provisions of this section and those of section 23 below.
- (2) The purposes referred to in subsection (1) above are those of—
- (a) establishing, by reference to the satisfaction of contribution conditions, entitlement to a contribution-based jobseeker's allowance, to a contributory employment and support allowance or to any benefit specified in section 20(1) above, other than maternity allowance; ~~and~~
 - (b) calculating the additional pension in the rate of a long-term benefit; **and**
 - (c) **establishing entitlement to a state pension under Part 1 of the Pensions Act 2013 and, where relevant, calculating the rate of a state pension under that Part.**
- (2A) For the purposes specified in subsection (2)(b) above, in the case of the first appointed year or any subsequent tax year a person's earnings factor shall be treated as derived only from so much of his earnings as did not exceed the applicable limit and on which primary Class 1 contributions have been paid or treated as paid. This subsection does not affect the operation of sections 44A and 44B (deemed earnings factors).
- (2B) "The applicable limit" means—
- (a) in relation to a tax year before 2009-10, the upper earnings limit;
 - (b) in relation to 2009-10 or any subsequent tax year, the upper accrual point.
- (3) Separate earnings factors may be derived for 1987-88 and subsequent tax years—
- (a) from earnings not exceeding the upper earnings limit upon which primary Class 1 contributions have been paid or treated as paid.
 - (b) from earnings which have been credited;
 - (c) from contributions of different classes paid or credited in the same tax year;
 - (d) by any combination of the methods mentioned in paragraphs (a) to (c) above,
- and may be derived for any earlier tax year from contributions of different classes paid or credited in the same tax year, and from contributions which have actually been paid, as opposed to those not paid but credited.
- (4) Subject to regulations under section 19(4) to (6) above, no earnings factor shall be derived—
- (a) for 1987-88 or any subsequent tax year, from earnings in respect of which primary Class 1 contributions are paid at the reduced rate, or

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- (b) for any earlier tax year, from primary Class 1 contributions paid at the reduced rate or from secondary Class 1 contributions.
- (5) Regulations may provide for crediting–
- (a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or
 - (b) for any earlier tax year, contributions of any class,
- for the purpose of bringing a person's earnings factor for that tax year to a figure which will enable him to satisfy contribution conditions of entitlement to a contribution-based jobseeker's allowance, to a contributory employment and support allowance or to any prescribed description of benefit (whether his own entitlement or another person's).

(5ZA) Regulations may provide for crediting –

- (a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or**
 - (b) for any earlier tax year, contributions of any class,**
- for the purpose of bringing an earnings factor for that tax year to a figure which will make that year a “qualifying year”, “pre-commencement qualifying year” or “post-commencement qualifying year” of a person for the purposes of Part 1 of the Pensions Act 2013 (see sections 2(4) and 4(4) of that Act).**
- (5A) Section 23A makes provision for the crediting of Class 3 contributions for the purpose of determining entitlement to the benefits to which that section applies.
- (6) Regulations may impose limits with respect to the earnings factors which a person may have or be treated as having in respect of any one tax year.
- (7) The power to amend regulations made before 30th March 1977 (the passing of the Social Security (Miscellaneous Provisions) Act 1977) under subsection (5) above may be so exercised as to restrict the circumstances in which and the purposes for which a person is entitled to credits in respect of weeks before the coming into force of the amending regulations; but not so as to affect any benefit for a period before the coming into force of the amending regulations if it was claimed before 18th March 1977.
- (8) In this section, “contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).
- (9) References in this Act or any other Act to earnings factors derived from so much of a person's earnings as do not exceed the upper accrual point or the upper earnings limit are to be read, in relation to earners paid otherwise than weekly, as references to earnings factors derived from so much of those earnings as do not exceed the prescribed equivalent.

Schedule 12, Paragraph 7

Amends section 71 of the Social Security Administration Act 1992 as follows:

71 Overpayments - general

- (1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—
 - (a) a payment has been made in respect of a benefit to which this section applies; or any sum recoverable by or on behalf of the Secretary of State in connection with any such payment has not been recovered,
 - (b) the Secretary of State shall be entitled to recover the amount of any payment which he would not have made or any sum which he would have received but for the misrepresentation or failure to disclose.
- (2) Where any such determination as is referred to in subsection (1) above is made, the person making the determination shall in the case of the Secretary of State or the First-tier Tribunal, and may in the case of the Upper Tribunal or a court—
 - (a) determine whether any, and if so what, amount is recoverable under that subsection by the Secretary of State, and
 - (b) specify the period during which that amount was paid to the person concerned.
- (3) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.
- (4) In relation to cases where payments of benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Secretary of State is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.
- (5) *Repealed under previous legislation*
- (5A) Except where regulations otherwise provide, an amount shall not be recoverable under subsection (1) or under regulations under subsection (4) unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or has been revised under section 9 or superseded under section 10 of the Social Security Act 1998.
- (6) Regulations may provide—
 - (a) that amounts recoverable under subsection (1) above or regulations under subsection (4) above shall be calculated or estimated in such manner and on such basis as may be prescribed;
 - (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
 - (i) as properly paid; or
 - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding any arrears payable by virtue of the subsequent determination;
 - (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
 - (i) the other person is himself entitled to a payment for that period; or

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(ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,

and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

(7) *Repealed under previous legislation*

(8) Where any amount paid is recoverable under—

- (a) subsection (1) above;
- (b) regulations under subsection (4) above; or
- (c) section 74 below,

it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

(9) Where any amount paid in respect of a couple is recoverable as mentioned in subsection (8) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.

(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) above to be recovered by deductions from earnings.

(9B) In subsection (9A) above “earnings” has such meaning as may be prescribed.

(9C) Regulations under subsection (9A) above may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State.
- (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Secretary of State;
- (e) as to a level of earnings below which earnings must not be reduced.
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary’s earnings in respect of the employer’s administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary’s earnings;
 - (iii) any diligence against earnings.

(10) Any amount recoverable under the provisions mentioned in subsection (8) above—

- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, shall be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and

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- (b) if he resides in Scotland, shall be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(10A) *Repealed under previous legislation*

(10B) *Repealed under previous legislation*

(11) This section applies to the following benefits—

(za) state pension or a lump sum under Part 1 of the Pensions Act 2013

- (a) benefits as defined in section 122 of the Contributions and Benefits Act;
- (aa) subject to section 71A below, a jobseeker's allowance
- (ab) state pension credit
- (ac) an employment and support allowance
- (ad) personal independence payment
- (b) income support;
- (c) *Repealed under previous legislation*
- (d) *Repealed under previous legislation*
- (e) any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act; and
- (ea) health in pregnancy grant; and
- (f) child benefit.

(12) In this section, "couple" has the meaning given by section 137(1) of the Contributions and Benefits Act.

Schedule 12, Paragraph 8

Amends section 73 of the Social Security Administration Act 1992 as follows:

73 Overlapping benefits – general

- (1) Regulations may provide for adjusting **state pension under Part 1 of the Pensions Act 2013** or benefit as defined in section 122 of the Contributions and Benefits Act, or a contribution-based jobseeker's allowance, or a contributory employment and support allowance which is payable to or in respect of any person, or the conditions for receipt of that benefit, where –
 - (a) there is payable in his case any such pension or allowance as is described in subsection (2) below; or
 - (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.
- (2) Subsection (1)(a) above applies to any pension, allowance or benefit payable out of public funds (including any other benefit as so defined, whether it is of the same or a different description) which is payable to or in respect of –
 - (a) the person referred to in subsection (1);
 - (b) that person's wife, husband or civil partner;
 - (c) any dependant of that person; or
 - (d) the wife, husband or civil partner of any adult dependant of that person.
- (3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.
- (4) Regulations may provide for adjusting –
 - (za) state pension under Part 1 of the Pensions Act 2013**
 - (a) benefit as defined in section 122 of the Contributions and Benefits Act;
 - (b) a contribution-based jobseeker's allowance, or
 - (c) a contributory employment and support allowance,payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.
- (5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of –
 - (a) the person referred to in that subsection;
 - (b) that person's wife, husband or civil partner;
 - (c) any dependant of that person; or
 - (d) the wife, husband or civil partner of any adult dependant of that person.
- (6) Personal independence payment is to be treated for the purposes of this section as if it were benefit as defined in section 122 of the Contributions and Benefits Act.

Schedule 12, Paragraph 14

Amends section 150(1) of the Social Security Administration Act 1992 as follows:

150 Annual up-rating of benefits

- (1) The Secretary of State shall in each tax year review the sums-
- (a) specified in the following provisions of the Contributions and Benefits Act-
 - (i) Schedule 4 (excluding the provisions of Parts 1, 3 and 5 of the Schedule that specify amounts mentioned in section 150A(1) below); and
 - (ii) section 44(4) so far as relating to the lower rate of short-term incapacity benefit;
 - (iii) paragraphs 2(6)(c) and 6(2)(b) of Schedule 8;
 - (aa) specified in regulations under section 30B(7) of that Act;
 - (ab) specified in regulations under section 39(2A) or section 39C(1A) of that Act;
 - (b) specified in regulations under section 72(3) or 73(10) of that Act;
 - (c) which are the additional pensions in long-term benefits;
 - (ca) which are shared additional pensions;
 - (d) which are the increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act;
 - (dza) which are lump sums to which surviving spouses or civil partners will become entitled under paragraph 7A of that Schedule on becoming entitled to a Category A or Category B retirement pension;
 - (da) which are the increases in the rates of shared additional pensions under paragraph 2 of Schedule 5A to that Act;
 - (e) which are-
 - (i) payable by virtue of section 15(1) of the Pensions Act to a relevant person (including sums payable by virtue of section 17(2)); or
 - (ii) payable to such a person as part of his Category A or Category B retirement pension by virtue of an order made under this section by virtue of this paragraph or made under section 126A of the 1975 Act or section 63(1)(d) of the 1986 Act;
 - (f) *Repealed under previous legislation*
 - (g) falling to be calculated under paragraph 13(4) of Schedule 7 to that Act;
 - (h) prescribed for the purposes of section 128(5) or 129(8) of that Act or specified in regulations under section 135(1) of that Act;
 - (i) specified by virtue of section 145(1) of that Act;
 - (j) specified in section 157(1) of that Act or in regulations under section 166(1)(b), 171ZE(1), 171ZEE(1) or 171ZN(1);
 - (k) specified in regulations under section 4(2) or (5) of the Jobseekers Act 1995;
 - (l) specified in regulations under section 2 or 3 of the State Pension Credit Act 2002 (other than those prescribing the amounts mentioned in section 150A(1)(d) below);
 - (m) specified in regulations under section 2(1)(a) or (4)(c) or 4(2)(a) or (6)(c) of the Welfare Reform Act 2007;
 - (n) specified in regulations under sections 9 to 12 of the Welfare Reform Act 2012;

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(o) specified in regulations under section 78(3) or 79(3) of that Act;

(p) which are the increases in the rates of state pensions under section 17 of the Pensions Act 2013;

in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit.

- (1A) In subsection (1)(e)(i) "relevant person" means a person-
- (a) who became entitled to a Category A or Category B retirement pension before the day on which section 2(1) of the Pensions Act 2011 comes into force, and
 - (b) to whom sums became payable by virtue of section 15(1) of the Pension Schemes Act 1993 (including sums payable by virtue of section 17(2)) before that day.
- (1B) In subsection (1A)-
- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
 - (b) a reference to sums becoming payable before a day includes a reference to sums becoming payable on or after that day in respect of a period before that day.
- (2) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an up-rating order-
- (a) which increases each of the sums to which subsection (3) below applies by a percentage not less than the percentage by which the general level of prices is greater at the end of the period than it was at the beginning; and
 - (b) if he considers it appropriate, having regard to the national economic situation and any other matters which he considers relevant, which also increases by such a percentage or percentages as he thinks fit any of the sums mentioned in subsection (1) above but to which subsection (3) below does not apply; and
 - (c) stating the amount of any sums which are mentioned in subsection (1) above but which the order does not increase.
- (2) This subsection applies to sums-
- (a) specified in Part I, paragraphs 1 to 5 of Part III, Part IV or Part V of Schedule 4 to the Contributions and Benefits Act (excluding the provisions of Parts 1 and 5 of the Schedule that specify amounts mentioned in section 150A(1) below);
 - (b) mentioned in subsection (1)(a)(ii) or (iii), (aa), (ab), (b), (c), (d), (dza), (e) or (g) above.
- (3) Subsection (2) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable.
- (4) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round any sum up or down to such extent as he thinks appropriate.
- (5) Where subsection (2) above requires the Secretary of State to lay before Parliament the draft of an order increasing any sum that could be reduced under section 154(1) below, the order may make such alteration to that sum as reflects the combined effect of that increase and of any reduction that could be made under that subsection.
- (6) If the Secretary of State considers it appropriate to do so, he may include in the draft of an up-rating order, in addition to any other provisions, provisions increasing any of the sums for the time being specified in regulations under Part VII of the Contributions and

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Benefits Act or under the Jobseekers Act 1995, the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007, or which are additions to income support under regulations made under section 89 of the 1986 Act.

The reference to regulations under the State Pension Credit Act 2002 does not include those prescribing the amounts mentioned in section 150A(1)(d) below.

- (7) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary's opinion on the likely effect on the National Insurance Fund of such parts of the order as relate to sums payable out of that Fund.
- (8) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (9) An order under this section-
- (a) shall be framed so as to bring the alterations to which it relates into force-
 - (i) in the week beginning with the first Monday in the tax year following that in which the order is made; or
 - (ii) on such earlier date in April as may be specified in the order;
 - (b) may make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement-
 - (i) to working families' tax credit;
 - (ii) to disabled person's tax credit; or
 - (iii) to statutory sick pay,running at the date when the alterations come into force.
- (10A) Where a member of a scheme which was at a time before the abolition date, as defined by section 181(1) of the Pensions Act, an appropriate personal pension scheme or a money purchase contracted-out scheme continues in employment after attaining pensionable age and the commencement of his pension under the scheme is postponed, the preceding provisions of this section shall have effect as if-
- (a) the guaranteed minimum pension to which he is treated as entitled by virtue of section 48(2)(a) of the Pensions Act were subject to increases in accordance with the provisions of section 15(1) of that Act; and
 - (b) the amounts of any notional increases referred to in paragraph (a) above were subject to annual up-rating in the same way as if they were sums to which subsection (1)(e)(i) above applied.
- (10B) Subsection (10A) does not have effect unless-
- (a) the member became entitled to a Category A or Category B retirement pension before the day on which section 2(2) of the Pensions Act 2011 comes into force, and
 - (b) the member's postponed pension under the scheme became payable before that day.
- (10C) In subsection (10B)-
- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
 - (b) a reference to a pension becoming payable before a day includes a reference to a pension becoming payable on or after that day in respect of a period before that day.
- (10) So long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to

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the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision for applying the provisions of this section

- (a) to the amount of graduated retirement benefit payable for each unit of graduated contributions,
 - (b) to increases of such benefit under any provisions made by virtue of section 24(1)(b) of the Social Security Pensions Act 1975 or section 62(1)(a) of the Contributions and Benefits Act, and
 - (c) to any addition under section 37(1) of the National Insurance Act 1965 (addition to weekly rate of retirement pension for widows and widowers) to the amount of such benefit.
- (11) So long as sections 36 and 37 of the National Insurance Act 1965 continue in force as mentioned in subsection (11), this section applies as if subsections (1) and (3) included the sums mentioned in subsection (13).
- (12) Those sums are lump sums to which surviving spouses or civil partners will become entitled, by virtue of regulations made under section 62(1)(c) of the Contributions and Benefits Act, on becoming entitled to-
- (a) a Category A or Category B retirement pension; or
 - (b) graduated retirement benefit

Schedule 12, Paragraph 15

Amends section 150A(1) of the Social Security Administration Act 1992 as follows:

150A Annual up-rating of basic pension etc and standard minimum guarantee

- (1) The Secretary of State shall in each tax year review the following amounts in order to determine whether they have retained their value in relation to the general level of earnings obtaining in Great Britain
 - (za) the amount specified in regulations under section 3(1) of the Pensions Act 2013 (full rate of State Pension)**
 - (a) the amount of the basic pension;
 - (b) the specified amounts in the case of Category B, C or D retirement pensions;
 - (c) the specified amounts in the case of industrial death benefit; and
 - (d) the amounts of the standard minimum guarantee for the time being prescribed under section 2(4) and (5)(a) and (b) of the State Pension Credit Act 2002.
- (2) Where it appears to the Secretary of State that the general level of earnings is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an order which increases each of the amounts referred to in subsection (1) above by a percentage not less than the percentage by which the general level of earnings is greater at the end of the period than it was at the beginning.
- (3) Subsection (2) above does not require the Secretary of State to provide for an increase in any case if it appears to him that the amount of the increase would be inconsiderable.
- (4) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round the sum in question up or down to such extent as he thinks appropriate.
- (5) The Secretary of State shall lay with a draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary's opinion on the likely effect on the National Insurance Fund of any parts of the order relating to sums payable out of that Fund.
- (6) If a draft order laid before Parliament under this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (7) An order under this section shall be framed so as to bring the increase in question into force in the week beginning with the first Monday in the tax year following that in which the order is made.
- (8) For the purposes of any review under subsection (1) above the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.
- (9) If a draft order under this section is combined with a draft up-rating order under section 150 above, the report required by virtue of subsection (5) above may be combined with that required by virtue of section 150(8) above.
- (10) In this section –
 - "the amount of the basic pension" means the first amount specified in section 44(4) of the Contributions and Benefits Act (weekly rate of Category A retirement pension);
 - "the specified amounts in the case of Category B, C or D retirement pensions" means –
 - (a) the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act, and
 - (b) the amounts specified in paragraphs 6 and 7 of Part 3 of that Schedule;
 - "the specified amounts in the case of industrial death benefit" means –

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- (a) the amounts specified in paragraph 10 of Part 5 of that Schedule (apart from the amount of the initial rate), and
- (b) the amount specified in paragraph 11 of that Part of that Schedule.

Schedule 12, Paragraph 16

Amends section 151 of the Social Security Administration Act 1992 as follows:

151 Up-rating – supplementary

- (1) Any increase under section 150 above of the sums mentioned in subsection (1)(c) of that section shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and shall apply subject to section 156 and only in relation to additional pensions calculated under section 45 of the Contributions and Benefits Act by reference to final relevant years which are—
- (a) earlier than the tax year preceding that in which the order comes into force; or
 - (b) if the order comes into force on or after 6th May in any tax year, earlier than that year.
- (2) Any increase under section 150 above of the sums mentioned in subsection (1)(d), ~~(dza) or (e)~~ **(dza), (e) or (p)** of that section shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and –
- (a) in the case of the sums mentioned in subsection (1)(d) or (e) of that section, shall apply only in relation to sums calculated under Schedule 5 to the Contributions and Benefits Act by reference to periods of deferment which have ended before the coming into force of the order, and**
 - (b) in the case of the sums mentioned in subsection (1)(p) of that section, shall apply only in relation to sums calculated under section 17 of the Pensions Act 2013 by reference to periods which have ended before the coming into force of the order.**

Schedule 12, Paragraph 18

Amends section 155A of the Social Security Administration Act 1992 as follows:

155A Power to anticipate pensions up-rating order

- (1) This section applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
 - (a) the amounts by which he proposes, by an order under section ~~150 or 150A~~ **150, 150A or 151A** above (as the case may be), to increase—
 - (i) the weekly sums that are payable by way of **state pension under the Pensions Act 2013**, retirement pension or shared additional pension; or
 - (ii) the amount of graduated retirement benefit payable for each unit of graduated contributions; and
 - (b) the date on which he proposes to bring the increases into force (“the commencing date”).
- (2) Where, before the commencing date and after the date on which the statement is made, an award is made of **a state pension**, a retirement pension, a shared additional pension or a graduated retirement benefit, the award either may provide for the pension or benefit to be paid as from the commencing date at the increased rate or may be expressed in terms of the rate appropriate at the date of the award.

Schedule 12, Paragraph 19

Amends section 163 of the Social Security Administration Act 1992 as follows:

163 General financial arrangements

- (1) There shall be paid out of the National Insurance Fund—
- (za) state pension and lump sums under Part 1 of the Pensions Act 2013;**
- (a) benefit under Part II of the Contributions and Benefits Act;
 - (b) guardian's allowance;
 - (c) Christmas bonus if the relevant qualifying benefit is payable out of that Fund;
 - (d) any sum which, under regulations relating to statutory sick pay, statutory maternity pay, statutory adoption pay, ordinary statutory paternity pay or additional statutory paternity pay or statutory paternity pay, falls to be paid by or on behalf of the Inland Revenue or to be set off against sums payable to the Inland Revenue otherwise than on account of contributions;
 - (e) *Repealed under previous legislation*
- (2) There shall be paid out of money provided by Parliament—
- (a) any administrative expenses of the Secretary of State or other government department in carrying into effect the Contributions and Benefits Act, **Part 1 of the Pensions Act 2013** or this Act;
 - (aa) any administrative expenses of the Secretary of State in supplying information about benefits under Part II of that Act in accordance with regulations under section 23 of the Welfare Reform and Pensions Act 1999;
 - (b) benefit under Part III of the Contributions and Benefits Act, other than guardian's allowance;
 - (c) benefit under Part V of that Act;
 - (d) any sums payable by way of the following—
 - (i) income support;
 - (ii) *Repealed under previous legislation*
 - (iii) *Repealed under previous legislation*
 - (iv) rate rebate subsidy;
 - (v) rent rebate subsidy;
 - (vi) rent allowance subsidy;
 - (vii) council tax benefit subsidy;
 - (e) payments by the Secretary of State into the social fund under section 167(3) below;
 - (f) child benefit;
 - (g) Christmas bonus if the relevant qualifying benefit is payable out of such money;
 - (h) any sums falling to be paid by the Secretary of State or the Inland Revenue under or by virtue of this Act by way of travelling expenses;
 - (i) *Repealed under previous legislation*
- except in so far as they may be required by any enactment to be paid or borne in some other way.
- (3) The administrative expenses referred to in subsection (2)(a) above include those in connection with any inquiry undertaken—

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- (a) on behalf of the Inland Revenue with a view to obtaining statistic relating to the operation of Part I of the Contributions and Benefits Act, and
 - (b) on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of Parts II to VI and XI of that Act **or Part 1 of the Pensions Act 2013.**
- (4) Any sums required by a secondary contributor for the purpose of paying any secondary Class 1A or 1B contributions which are payable by him in respect of an earner in consequence of the earner's employment in an office of which the emoluments are payable out of the Consolidated Fund shall be paid out of that Fund.
- (5) Any expenditure in respect of the payment of interest or repayment supplements under or by virtue of paragraph 6 or 7B of Schedule 1 to the Contributions and Benefits Act or paragraph 6 of Schedule 2 to that Act shall be defrayed out of the National Insurance Fund in accordance with any directions given by the Treasury.

Schedule 12, Paragraph 34

Amends section 42 of the Child Support, Pensions and Social Security Act 2000 as follows:

42 Disclosure of state pension information

- (1) This section applies to any state pension information which is held in relation to any individual-
 - (a) by the Secretary of State; or
 - (b) in connection with the provision of any services provided to the Secretary of State for purposes connected with his functions relating to social security, by the person providing those services.
- (2) The Secretary of State may, in the prescribed manner, disclose or authorise the disclosure of any information to which this section applies in any case in which-
 - (a) the person to whom the disclosure is made is a person falling within subsection (3) who has, in the prescribed manner, applied to the Secretary of State for the disclosure of the information; and
 - (b) it appears to the Secretary of State that the prescribed conditions for the making of a disclosure of the information in question to that person have been satisfied.
- (3) A person falls within this subsection if-
 - (a) he is the trustee or manager of an occupational pension scheme of which the individual to whom the information relates is a member;
 - (b) he is the trustee or manager of a personal pension scheme of which that individual is a member;
 - (c) he is the employer in relation to an occupational pension scheme of which that individual is a member;
 - (d) he is the employer in relation to any employed earner's employment of that individual which is not contracted-out employment; or
 - (e) he is proposing to provide services to that individual in circumstances in which the provision of the services, or the proposal to do so, may involve the giving of advice or forecasts to which the information to which this section applies may be relevant.
- (3A) For the purposes of this section and of any regulations made under it, anything done by or in relation to a person who-
 - (a) provides, or proposes to provide, relevant services to a person falling within subsection (3) ("the qualifying person"), and
 - (b) is authorised in writing by the qualifying person to act for the purposes of this section,is treated as done by or in relation to the qualifying person.

In paragraph (a) "relevant services" means services that may involve the giving of advice or forecasts to which information to which this section applies may be relevant.
- (4) The Secretary of State shall secure that his powers under this section are exercised so that at least the following is prescribed for the purposes of subsection (2)(b), namely-
 - (a) in the case of an application for information made by a person falling within paragraph (e) of subsection (3), a condition that the individual to whom the information relates has consented to the making of the application and to the disclosure; and
 - (b) in any other case, either that condition or the alternative condition set out in subsection (5).
- (5) The alternative condition is-

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- (a) that such steps as may be prescribed have been taken for the purpose of ascertaining whether the individual to whom the information relates objects to the making of the application for the disclosure of information relating to him; and
 - (b) that the prescribed time has elapsed without any objection by that individual.
- (6) A person applying to the Secretary of State, in accordance with regulations under this section, for the disclosure of any information relating to an individual shall be entitled, for the purpose of making the application, to make such disclosures of information relating to that individual as may be authorised by the regulations.
- (7) In this section the reference, in relation to an individual, to state pension information is a reference to the following information about that individual-
- (a) his date of birth, and the age at which and date on which he attains pensionable age-
 - (i) for the purposes of the Pension Schemes Act 1993, in relation to any guaranteed minimum pension to which he is entitled; and
 - (ii) in accordance with the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995;
 - (aa) the amount of any state pension under Part 1 of the Pensions Act 2013 a present or future entitlement to which has already accrued to that individual;**
 - (ab) a projection of the amount of any state pension under Part 1 of the Pensions Act 2013 to which that individual is likely to become entitled, or might become entitled in particular circumstances;**
 - (b) the amount of any basic retirement pension a present or future entitlement to which has already accrued to that individual, and the amount of any additional retirement pension such an entitlement to which has already accrued to that individual;
 - (c) a projection of the amount of the basic retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances;
 - (d) a projection of the amount of the additional retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances, and
 - (e) a projection of the amount of any lump sum to which that individual is likely to become entitled, or might become entitled in particular circumstances.
- (8) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Subsections (4) to (6) of section 189 of the Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make regulations under this section as they apply in relation to the powers to make regulations that are conferred by that Act.
- (10) For the purposes of section 121E of the Social Security Administration Act 1992 (supply of information by the Inland Revenue to the Secretary of State for the purposes of the Secretary of State's functions relating to social security), the Secretary of State's functions relating to social security shall be taken to include any power conferred on him by regulations under this section.
- (11) In this section-
- "additional retirement pension" means any additional pension or shared additional pension under the Social Security Contributions and Benefits Act 1992, or any graduated retirement benefit under sections 36 and 37 of the National Insurance Act 1965;
- "basic retirement pension" means any basic pension under the Social Security Contributions and Benefits Act 1992;

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"contracted-out employment" has the same meaning as in the Pension Schemes Act 1993;

"employed earner" has the same meaning as it has in Parts I to V of the Social Security Contributions and Benefits Act 1992 (by virtue of section 2(1) of that Act);

"employer"-

- (a) in relation to any occupational pension scheme, has the same meaning as in Part I of the Pensions Act 1995; and
- (b) in relation to employed earner's employment, has the same meaning as in the Pension Schemes Act 1993;

"lump sum" means a lump sum under **section 8 of the Pensions Act 2013 or** Schedule 5 or 5A to the Social Security Contributions and Benefits Act 1992;

"member", in relation to an occupational pension scheme, has the same meaning as in Part I of the Pensions Act 1995;

"occupational pension scheme" and "personal pension scheme" have the same meanings as in the Pension Schemes Act 1993;

"prescribed" means prescribed by or determined in accordance with regulations;

"regulations" means regulations made by the Secretary of State;

"trustee or manager", in relation to an occupational or personal pension scheme, means-

- (a) in the case of a scheme established under a trust, the trustee or trustees of the scheme, and
- (b) in any other case, the person or persons responsible for the management of the scheme.

Schedule 12, Paragraph 48

Amends section 96 of the Welfare Reform Act 2012 as follows:

96 Benefit Cap

- (1) Regulations may provide for a benefit cap to be applied to the welfare benefits to which a single person or couple is entitled.
- (2) For the purposes of this section, applying a benefit cap to welfare benefits means securing that, where a single person's or couple's total entitlement to welfare benefits in respect of the reference period exceeds the relevant amount, their entitlement to welfare benefits in respect of any period of the same duration as the reference period is reduced by an amount up to or equalling the excess.
- (3) In subsection (2) the "reference period" means a period of a prescribed duration.
- (4) Regulations under this section may in particular—
 - (a) make provision as to the manner in which total entitlement to welfare benefits for any period, or the amount of any reduction, is to be determined;
 - (b) make provision as to the welfare benefit or benefits from which a reduction is to be made;
 - (c) provide for exceptions to the application of the benefit cap;
 - (d) make provision as to the intervals at which the benefit cap is to be applied;
 - (e) make provision as to the relationship between application of the benefit cap and any other reduction in respect of a welfare benefit;
 - (f) provide that where in consequence of a change in the relevant amount, entitlement to a welfare benefit increases or decreases, that increase or decrease has effect without any further decision of the Secretary of State;
 - (g) make supplementary and consequential provision.
- (5) In this section the "relevant amount" is an amount specified in regulations.
- (6) The amount specified under subsection (5) is to be determined by reference to estimated average earnings.
- (7) In this section "estimated average earnings" means the amount which, in the opinion of the Secretary of State, represents at any time the average weekly earnings of a working household in Great Britain after deductions in respect of tax and national insurance contributions.
- (8) The Secretary of State may estimate such earnings in such manner as the Secretary of State thinks fit.
- (9) Regulations under this section may not provide for any reduction to be made from a welfare benefit—
 - (a) provision for which is within the legislative competence of the Scottish Parliament;
 - (b) provision for which is within the legislative competence of the National Assembly for Wales;
 - (c) provision for which is made by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
- (10) In this section—

"couple" means two persons of a prescribed description;

"prescribed" means prescribed in regulations;

"regulations" means regulations made by the Secretary of State;

"single person" means a person who is not a member of a couple;

"welfare benefit" means any prescribed benefit, allowance, payment or credit.

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- (11) Regulations under subsection (10) may not prescribe as welfare benefits–
- (za) state pension under Part 1 of the Pensions Act 2013,**
 - (a) state pension credit under the State Pension Credit Act 2002, or
 - (b) retirement pensions under Part 2 or 3 of the Social Security Contributions and Benefits Act 1992.

SCHEDULE 12 – State Pension: Amendments

Part 2: AMENDMENTS TO DO WITH OLD STATE PENSION SYSTEM

Schedule 12, Paragraph 51

Amends section 44 of the Social Security Contributions and Benefits Act 1992 as follows:

44

- (1) A person shall be entitled to a Category A retirement pension if—
- ~~(a) he is over pensionable age; and~~
 - (a) the person attained pensionable age before 6 April 2016,**
 - (b) he satisfies the relevant conditions or condition;
 - (c) and, subject to the provisions of this Act, he shall become so entitled on the day on which he attains pensionable age and his entitlement shall continue throughout his life.
- (1A) In subsection (1)(b) above “the relevant conditions or condition” means—
- (a) in a case where the person attains pensionable age before 6th April 2010, the conditions specified in Schedule 3, Part I, paragraph 5;
 - (b) in a case where the person attains pensionable age on or after that date, the condition specified in Schedule 3, Part I, paragraph 5A.
- (2) A Category A retirement pension shall not be payable in respect of any period falling before the day on which the pensioner’s entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act.
- (3) A Category A retirement pension shall consist of—
- (a) a basic pension payable at a weekly rate; and
 - (b) an additional pension payable where there are one or more surpluses in the pensioner’s earnings factors for the relevant years.
- (4) The weekly rate of the basic pension shall be £107.45 except that, so far as the sum is relevant for the purpose of calculating the lower rate of short-term incapacity benefit under section 30B(3) above, it shall be £95.15.
- In this subsection “the lower rate” means the rate payable for the first 196 days of entitlement in any period of incapacity for work.
- (5) For the purposes of this section and section 45 below
- (a) there is a surplus in the pensioner’s earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for the final relevant year; and
 - (b) the amount of the surplus is the amount of that excess;
- and for the purposes of paragraph (a) above the pensioner’s earnings factor for any relevant year shall be taken to be that factor as increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (5A) For the purposes of this section and section 45 and Schedules 4A and 4B below—
- (a) there is a surplus in the pensioner’s earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for that year,
 - (b) the amount of the surplus is the amount of that excess, and
 - (c) for the purposes of section 45(1) and (2)(a) and (b) below, the adjusted amount of the surplus

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- (d) is the amount of that excess, as increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (6) Subject to subsection (7A) below any reference in this section or section 45 or Schedule 4A or 4B below to the pensioner's earnings factor for any relevant year is a reference—
- (a) (za) where the relevant year is the first appointed year or any subsequent year, to the aggregate of his earnings factors derived from so much of his earnings as did not exceed the applicable limit and upon which primary Class 1 contributions have been paid or treated as paid in respect of that year;
 - (b) where the relevant year is 1987-88 or any subsequent tax year before the first appointed year, to the aggregate of—
 - (i) his earnings factors derived from earnings upon which primary Class 1 contributions were paid or treated as paid in respect of that year, and
 - (ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid in respect of that year, or, if less, the qualifying earnings factor for that year; and
 - (c) where the relevant year is an earlier tax year, to the aggregate of—
 - (i) his earnings factors derived from Class 1 contributions actually paid by him in respect of that year, and
 - (ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid by him in respect of that year, or, if less, the qualifying earnings factor for that year.
- (7) In this section—
- (a) "relevant year" means 1978-79 or any subsequent tax year in the period between—
 - (i) (inclusive) the tax year in which the pensioner attained the age of 16, and
 - (ii) (exclusive) the tax year in which he attained pensionable age;
 - (b) "final relevant year" means the last tax year which is a relevant year in relation to the pensioner.
 - (c) "the applicable limit" means—
 - (i) in relation to a tax year before 2009-10 the upper earnings limit;
 - (ii) in relation to 2009-10 or any subsequent tax year, the upper accrual point.
- (7A) The Secretary of State may prescribe circumstances in which pensioners earnings factors for any relevant year may be calculated in such manner as may be prescribed.
- (8) For the purposes of this section any order under section 21 of the Social Security Pensions Act 1975 (which made provision corresponding to section 148 of the Administration Act) shall be treated as an order under section 148 (but without prejudice to sections 16 and 17 of the Interpretation Act 1978).

Schedule 12, Paragraph 52

Amends section 48 of the Social Security Contributions and Benefits Act 1992 as follows:

48

- (1) Where a person **who attained pensionable age before 6 April 2016** –
- (a) has been in a relevant relationship, and
 - (b) in respect of the tax year in which the relationship terminated or any previous tax year, does not with his own contributions satisfy the contribution conditions for a Category A retirement pension,
- then for the purpose of enabling him to satisfy those conditions (but only in respect of any claim for a Category A retirement pension), the contributions of his former spouse or civil partner may to the prescribed extent be treated as if they were his own contributions.
- (2) Subsection (1) above shall not apply in relation to any person who attained pensionable age before 6th April 1979 if the termination of his relevant relationship also occurred before that date.
- (2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after 6 April 2016 to be treated as contributions of another person.**
- (3) Where a person has been in a relevant relationship more than once, this section applies only to the last relevant relationship and the references to his relevant relationship and his former spouse or civil partner shall be construed accordingly.
- (4) In this section, “relevant relationship” means a marriage or civil partnership.

Schedule 12, Paragraph 56

Amends section 48A of the Social Security Contributions and Benefits Act 1992 as follows:

48A

- (1) ~~A person who—~~
- ~~(a) has attained pensionable age, and~~
 - ~~(b) on attaining that age was a married person or marries after attaining that age,~~
- ~~shall be entitled to a Category B retirement pension by virtue of the contributions of the other party to the marriage (“the spouse”) if the following requirement is met.~~
- (2) ~~The requirement is that the spouse—~~
- ~~(a) has attained pensionable age, and~~
 - ~~(b) satisfies the relevant conditions or condition.~~
- ~~(2ZA) In subsection (2)(b) above “the relevant conditions or condition” means—~~
- ~~(c) in a case where the spouse is a married man who attains pensionable age before 6th April 2010, the conditions specified in Schedule 3, Part 1, paragraph 5;~~
 - ~~(d) in a case where the spouse attains pensionable age on or after that date, the condition specified in Schedule 3, Part 1, paragraph 5A.~~
- (2A) ~~A person who—~~
- ~~(e) has attained pensionable age, and~~
 - ~~(f) on attaining that age was a civil partner or forms a civil partnership after attaining that age,~~
- ~~shall be entitled to a Category B retirement pension by virtue of the contributions of the other party to the civil partnership (“the contributing civil partner”) if the following requirement is met.~~
- (2B) ~~The requirement is that the contributing civil partner—~~
- ~~(a) has attained pensionable age, and~~
 - ~~(b) satisfies the conditions specified in Schedule 3, Part 1, paragraph 5A.~~
- (3) ~~During any period when the spouse or contributing civil partner is alive, a Category B retirement pension payable by virtue of this section shall be payable at the weekly rate specified in Schedule 4, Part 1, paragraph 5.~~
- (4) ~~During any period after the spouse or contributing civil partner is dead, a Category B retirement pension payable by virtue of this section shall be payable at a weekly rate corresponding to—~~
- ~~(a) the weekly rate of the basic pension, plus~~
 - ~~(b) half of the weekly rate of the additional pension,~~
- ~~determined in accordance with the provisions of sections 44 to 45B above and Schedules 4A and 4B below as they apply in relation to a Category A retirement pension, but subject to section 46 above and the modification in section 48C(4) below.~~
- (4A) ~~Subsection (4) above shall have effect with the omission of the words from “plus” to the end if the pensioner is not the widow, widower or surviving civil partner of the person by virtue of whose contributions the pension is payable.~~

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

- (1) **A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if –**
- (a) the person attained pensionable age before 6 April 2016, and**

- (b) the spouse –
 - (i) has attained pensionable age, and
 - (ii) satisfies the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on –
 - (a) a man whose spouse was born before 6 April 1950, or
 - (b) a woman whose wife was born before 6 April 1950.
- (3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if –
 - (a) the person attained pensionable age before 6 April 2016, and
 - (b) the contributing civil partner –
 - (i) was born on or after 6 April 1950,
 - (ii) has attained pensionable age, and
 - (iii) satisfies the condition in paragraph 5A of Schedule 3.
- (4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) A person ceases to be entitled to a Category B retirement pension under this section if –
 - (a) the person’s spouse or civil partner dies (but see sections 48B and 51), or
 - (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means –
 - (a) in a case where the spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
 - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) Section 51ZA contains special rules for cases involving changes in gender.

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

- (1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if –
 - (a) the person attained pensionable age –
 - (i) before 6 April 2016, and
 - (ii) before the marriage was dissolved, and
 - (b) the former spouse –
 - (i) attained pensionable age before the marriage was dissolved, and
 - (ii) satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on –
 - (a) a man whose former spouse was born before 6 April 1950, or

- (b) a woman whose former wife was born before 6 April 1950.**
- (3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if –**

 - (a) the person attained pensionable age –**

 - (i) before 6 April 2016, and**
 - (ii) before the civil partnership was dissolved, and**
 - (b) the former civil partner –**

 - (i) was born on or after 6 April 1950,**
 - (ii) attained pensionable age before the civil partnership was dissolved, and**
 - (iii) satisfied the condition in paragraph 5A of Schedule 3.**
- (4) During any period when the person’s former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.**
- (5) During any period after the person’s former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).**
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means –**

 - (a) in a case where the former spouse was born before April 1945, the conditions in paragraph 5 of Schedule 3;**
 - (b) in any other case, the condition in paragraph 5A of Schedule 3.**
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with 6 April 2016 or any later tax year.**
- (8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.**
- (9) Section 51ZA contains special rules for cases involving changes in gender.**

Schedule 12, Paragraph 57

Amends section 48B of the Social Security Contributions and Benefits Act 1992 as follows:

48B

~~(1) — A person (“the pensioner” whose spouse died—~~
~~(a) — while they were married, and~~
~~(b) — after the pensioner attained pensionable age,~~
shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse if the spouse satisfied the relevant conditions or condition.

~~(1ZA) In subsection (1) above “the relevant conditions or condition” means—~~

- ~~(a) — in a case where the spouse—~~
~~(i) — died before 6th April 2010, or~~
~~(ii) — died on or after that date having attained pensionable age before that date,~~
the conditions specified in Schedule 3, Part 1, paragraph 5;
- ~~(b) — in a case where the spouse died on or after that date without having attained pensionable age before that date, the condition specified in Schedule 3, Part 1, paragraph 5A.~~

~~(1A) A person (“the pensioner”) who attains pensionable age on or after 6th April 2010 and whose civil partner died—~~

- ~~(a) — while they were civil partners of each other, and~~
~~(b) — after the pensioner attained pensionable age,~~
shall be entitled to a Category B retirement pension by virtue of the contributions of the civil partner if the civil partner satisfied the condition specified in Schedule 3, Part 1, paragraph 5A.

(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if –

- (a) the pensioner attained pensionable age –**
(i) before 6 April 2016, and
(ii) before the spouse died, and
(b) the spouse satisfied the relevant contribution condition.

(1ZA) But subsection (1) does not confer a right to a Category B retirement pension on –

- (a) a man who attained pensionable age before 6 April 2010, or**
(b) a woman who attained pensionable age before 6 April 2010 and whose spouse was a woman.

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

- (a) in a case where the spouse –**
(i) died before 6 April 2010, or
(ii) died on or after that date having attained pensionable age before that date,
the conditions in paragraph 5 of Schedule 3, and
(b) in any other case, the condition in paragraph 5A of Schedule 3.

- (1A) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if –**
- (a) the pensioner attained pensionable age –**
 - (i) on or after 6 April 2010 but before 6 April 2016, and**
 - (ii) before the civil partner died, and**
 - (b) the civil partner satisfied the relevant contribution condition.**
- (1B) In subsection (1A)(b) “the relevant contribution condition” means–**
- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and**
 - (b) in any other case, the condition in paragraph 5A of Schedule 3.**
- (2) A Category B retirement pension payable by virtue of subsection (1) or (1A) above shall be payable at a weekly rate corresponding to–
- (a) the weekly rate of the basic pension, plus
 - (b) half of the weekly rate of the additional pension,
- determined in accordance with the provisions of sections 44 to 45B above and Schedules 4A and 4B below as they apply in relation to a Category A retirement pension, but subject to section 46 above and the modifications in subsection (3) below and section 48C(4) below.
- (3) Where the spouse or civil partner died under pensionable age, references in the provisions of sections 44 to 45B above as applied by subsection (2) above to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse or civil partner died.
- (3A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the deceased for the tax year beginning with 6 April 2016 or any later tax year.**
- ~~(4) A person who has attained pensionable age (“the pensioner”) whose spouse died before the pensioner attained that age shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse if–~~
- ~~(a) where the pensioner is a woman, the following condition is satisfied, and~~
 - ~~(b) where the pensioner is a man, the following condition would have been satisfied on the assumption mentioned in subsection (7) below.~~
- (4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if–**
- (a) she attained pensionable age before 6 April 2016, and**
 - (b) the condition in subsection (5) is satisfied.**
- (4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if–**
- (a) he attained pensionable age on or after 6 April 2010 but before 6 April 2016, and**
 - (b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).**
- (5) The condition is that the pensioner–
- (a) is entitled (or is treated by regulations as entitled) to a widow’s pension by virtue of section 38 above, and

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- (b) became entitled to that pension in consequence of the spouse's death.
- (6) A Category B retirement pension payable by virtue of subsection (4) **or (4A)** above shall be payable—
 - (a) where the pensioner is a woman, at the same weekly rate as her widow's pension, and
 - (b) where the pensioner is a man, at the same weekly rate as that of the pension to which he would have been entitled by virtue of section 38 above on the assumption mentioned in subsection (7) below.
- (7) The assumption referred to in subsections (4) **(4A)** and (6) above is that a man is entitled to a pension by virtue of section 38 above on the same terms and conditions, and at the same rate, as a woman.
- (8) Nothing in subsections (4) to (7) above applies in a case where the spouse dies on or after the appointed day (as defined by section 36A(3)).
- (9) Section 51ZA contains special rules for cases involving changes in gender.**

Schedule 12, Paragraph 63

Amends Schedule 3 of the Social Security Contributions and Benefits Act 1992 as follows:

Widowed mother's allowance, widowed parent's allowance, bereavement allowance, and widow's pension; retirement pensions (Categories A and B)

5.

~~(1) The contribution conditions for a widowed mother's allowance, a widowed parent's allowance, a bereavement allowance, a widow's pension or a Category A or Category B retirement pension (other than one in relation to which paragraph 5A applies) are the following.~~

(1) This paragraph sets out the contribution conditions for –

(a) a widowed mother's allowance, a widowed parent's allowance or a widow's pension;

(b) a Category A retirement pension (other than one in relation to which paragraph 5A applies);

(c) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.

(2) The first condition is that–

(a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class; and

(b) the earnings factor derived–

(i) if that year is 1987-88 or any subsequent year, from so much of the contributor's earnings as did not exceed the upper earnings limit and upon which such of those contributions as are primary Class 1 contributions were paid or treated as paid and any Class 2 or Class 3 contributions, or

(ii) if that year is an earlier year, from the contributions referred to in paragraph (a) above,

must be not less than the qualifying earnings factor of that year.

(3) The second condition is that–

(a) the contributor concerned must, in respect of each of not less than the requisite number of years of his working life, have paid or been credited with contributions of a relevant class or been credited (in the case of 1987-88 or any subsequent year) with earnings; and

(b) in the case of each of those years, the earnings factor derived as mentioned in sub-paragraph (4) below must be not less than the qualifying earnings factor for that year.

(4) For the purposes of paragraph (b) of sub-paragraph (3) above, the earnings factor–

(a) in the case of 1987-88 or any subsequent year, is that which is derived from–

(i) so much of the contributor's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in paragraph (a) of that sub-paragraph as are primary Class 1 contributions were paid or treated as paid or earnings credited; and

(ii) any Class 2 or Class 3 contributions for the year; or

(b) in the case of any earlier year, is that which is derived from the contributions mentioned in paragraph (a) of that sub-paragraph.

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- (5) For the purposes of the first condition, a relevant year is any year ending before that in which the contributor concerned attained pensionable age or died under that age; and the following table shows the requisite number of years for the purpose of the second condition, by reference to a working life of a given duration—

| Duration of working life | Requisite number of years |
|-------------------------------------|--|
| 10 years or less | The number of years of the working life, minus 1 |
| 20 years or less (but more than 10) | The number of years of the working life, minus 2 |
| 30 years or less (but more than 20) | The number of years of the working life, minus 3 |
| 40 years or less (but more than 30) | The number of years of the working life, minus 4 |
| More than 40 years | The number of years of the working life, minus 5 |

- (6) The first condition shall be taken to be satisfied if the contributor concerned was entitled to long-term incapacity benefit at any time during—
- (a) the year in which he attained pensionable age or died under that age, or
 - (b) the year immediately preceding that year.
- (6A) The first condition shall be taken to be satisfied if the contributor concerned was entitled to main phase employment and support allowance at any time during—
- (a) the year in which he attained pensionable age or died under that age, or
 - (b) the year immediately preceding that year.
- (6B) The reference in sub-paragraph (6A) to main phase employment and support allowance is to an employment and support allowance in the case of which the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007 (addition where conditions of entitlement to support component or work-related activity component satisfied).
- (7) The second condition shall be taken to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—
- (a) those paragraphs are complied with as respects at least half that number of years (or at least 20 of them, if that is less than half); and
 - (b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home.
- But nothing in this sub-paragraph applies in relation to any benefit to which section 23A above applies.
- (7A) Regulations may provide that a person is not to be taken for the purposes of sub-paragraph (7)(b) above as precluded from regular employment by responsibilities at home unless he meets the prescribed requirements as to the provision of information to the Secretary of State.
- (8) For the purposes of Parts I to VI of this Act a person's working life is the period between—
- (a) (inclusive) the tax year in which he attained the age of 16; and
 - (b) (exclusive) the tax year in which he attained pensionable age or died under that age.

5A.

- (1) This paragraph applies to—
 - (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010;
 - ~~(b) a Category B retirement pension payable by virtue of section 48A above in a case where the contributor concerned attains pensionable age on or after that date;~~
 - ~~(c) a Category B retirement pension payable by virtue of section 48B above in a case where the contributor concerned dies on or after that date without having attained pensionable age before that date.~~
 - (b) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.**
- (2) The contribution condition for a Category A or Category B retirement pension in relation to which this paragraph applies is that—
 - (a) the contributor concerned must, in respect of each of not less than 30 years of his working life, have paid or been credited with contributions of a relevant class or been credited (in the case of 1987-88 or any subsequent year) with earnings; and
 - (b) in the case of each of those years, the earnings factor derived as mentioned in sub-paragraph (3) below must be not less than the qualifying earnings factor for that year.
- (3) For the purposes of paragraph (b) of sub-paragraph (2) above, the earnings factor—
 - (a) in the case of 1987-88 or any subsequent year, is that which is derived from—
 - (i) so much of the contributor's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in paragraph (a) of that sub-paragraph as are primary Class 1 contributions were paid or treated as paid or earnings credited; and
 - (ii) any Class 2 or Class 3 contributions for the year; or
 - (b) in the case of any earlier year, is that which is derived from the contributions mentioned in paragraph (a) of that sub-paragraph.
- (4) Regulations may modify sub-paragraphs (2) and (3) above for the purposes of their application in a case where—
 - (a) the contributor concerned has paid, or been credited with, contributions, or
 - (b) contributions have been deemed to be, or treated as, paid by or credited to him,under the National Insurance Act 1946 or the National Insurance Act 1965.

Schedule 12, Paragraph 71

Amends Schedule 24 of the Civil Partnership Act 2004 as follows:

Schedule 24 (25)

- (1) Amend section 48A (category B retirement pension for married person) as follows.
- (2) After subsection (2) insert—
 - “(2A) A person who—
 - (a) has attained pensionable age, and
 - (b) on attaining that age was a civil partner or forms a civil partnership after attaining that age,shall be entitled to a Category B retirement pension by virtue of the contributions of the other party to the civil partnership (“the contributing civil partner”) if the following requirement is met.
 - (2B) The requirement is that the contributing civil partner—
 - (a) has attained pensionable age and become entitled to a Category A retirement pension, and
 - (b) satisfies the conditions specified in Schedule 3, Part 1, paragraph 5.”
- (3) In subsections (3) and (4), after “spouse” insert “or contributing civil partner”.
- (4) In subsection (4A), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- (5) *Repealed under previous legislation*
- ~~(6) Section 48A (as amended by this paragraph) does not confer a right to a Category B retirement pension on a person by reason of his or her forming a civil partnership with a person who was born before 6th April 1950.~~

Schedule 24 (28)

- (1) Amend section 51 (category B retirement pension for widowers) as follows.
- (2) After subsection (1) insert—
 - (1A) A civil partner shall be entitled to a Category B retirement pension if—
 - (a) his or her civil partner has died and they were civil partners of each other at the time of that death,
 - (b) they were both over pensionable age at the time of that death, and
 - (c) before that death the deceased civil partner satisfied the contribution conditions for a Category A retirement pension in Schedule 3, Part 1, paragraph 5.”
- (3) In subsection (2)—
 - (a) for “man's” substitute “person's”, and
 - (b) after “wife” insert “or deceased civil partner”.
- (4) In subsection (3), after “2002” insert “or a surviving civil partner”.
- (5) In subsection (4)—
 - (a) for “man” substitute “person”, and
 - (b) after “pension” insert “under this section”.
- ~~(6) Section 51 (as amended by this paragraph) does not confer a right to a Category B retirement pension on a person who attains pensionable age on or after 6th April 2010.~~

Schedule 12, Paragraph 74

Amends section 63(f) of the Social Security Contributions and Benefits Act 1992 as follows:

63

- (f) retirement pensions of the following categories—
 - (i) Category C, ~~payable to certain persons who were over pensionable age on 5th July 1948 and their wives and widows~~ **payable in certain cases to a widow whose husband was over pensionable age on 5 July 1948 or to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death** (with increase for adult dependants), and
 - (ii) Category D, payable, in the case of persons over the age of 80;
- (g) age addition payable, in the case of persons over the age of 80, by way of increase of a retirement pension of any category or of some other pension or allowance from the Secretary of State.

Schedule 12, Paragraph 75

Amends section 78 of the Social Security Contributions and Benefits Act 1992 as follows:

78

- (1) ~~A person who was over pensionable age on 5th July 1948 and who satisfies such conditions as may be prescribed shall be entitled to a Category C retirement pension at the appropriate weekly rate.~~
- (2) ~~If a woman whose husband is entitled to a Category C retirement pension—~~
- ~~(a) is over pensionable age; and~~
 - ~~(b) satisfies such other conditions as may be prescribed,~~
- ~~she shall be entitled to a Category C retirement pension at the appropriate weekly rate.~~
- (3) A person who is over the age of 80 and satisfies such conditions as may be prescribed shall be entitled to a Category D retirement pension at the appropriate weekly rate if—
- (a) he is not entitled to a Category A, Category B or Category C retirement pension; or
 - (b) he is entitled to such a pension, but it is payable at a weekly rate which, disregarding those elements specified in subsection (4) below, is less than the appropriate weekly rate.
- (4) The elements referred to in subsection (3)(b) above are—
- (a) any additional pension;
 - (b) any increase so far as attributable to—
 - (i) any additional pension, or
 - (ii) any increase in a guaranteed minimum pension;
 - (c) any graduated retirement benefit;
- (5) ~~The appropriate weekly rate of a Category C retirement pension—~~
- ~~(a) shall be the lower rate specified in Schedule 4, Part III, paragraph 6, where—~~
 - ~~(i) the pensioner is a married woman, and~~
 - ~~(ii) she has not, at any time since she became entitled to her pension, ceased to be a married woman; and~~
 - ~~(b) shall be the higher rate so specified in any other case.~~
- (6) The appropriate weekly rate of a Category D retirement pension shall be that specified in Schedule 4, Part III, paragraph 7.
- (7) Entitlement to a ~~Category C or~~ Category D retirement pension shall continue throughout the pensioner's life.
- (8) A ~~Category C or~~ Category D retirement pension shall not be payable for any period falling before the day on which the pensioner's entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act.
- (9) Regulations may provide for the payment—
- (a) to a widow whose husband was over pensionable age on 5th July 1948; or
 - (b) to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death,
- of a Category C retirement pension or of benefit corresponding to a widow's pension or a widowed mother's allowance; and any such retirement pension or any such benefit shall be at the prescribed rate.

Schedule 12, Paragraph 76

Amends Part 3 of Schedule 4 of the Social Security Contributions and Benefits Act 1992

SCHEDULE 4
RATES OF BENEFITS, ETC.

PART III

NON-CONTRIBUTORY PERIODICAL BENEFITS

| Description of benefit | Weekly rate | |
|--|---|-------------------|
| 1. Attendance Allowance | (a) higher rate | £79.15 |
| | (b) lower rate | £53.00 |
| | (the appropriate rate being determined in accordance with section 65(3)) | |
| 2. Severe disablement allowance | | £71.80 |
| 3. Age related addition | (a) higher rate | £10.70 |
| | (b) middle rate | £6.00 |
| | (c) lower rate | £6.00 |
| | (the appropriate rate being determined in accordance with section 69(1)). | |
| 4. Carer's Allowance | | £59.75 |
| 5. Guardian's allowance | | £15.55 |
| 6. Category C retirement pension | (a) lower rate | £39.45 |
| | (b) higher rate | £66.00 |
| | (the appropriate rate being determined in accordance with section 78(5)) | |
| 7. Category D retirement pension | The higher rate for Category C retirement pensions under paragraph 6 above | |
| | higher rate | £64.40 |
| 8. Age addition (to a pension of any category, and otherwise under section 79) | | £0.25 |

Schedule 12, Paragraph 77

Amends section 150A(10) of the Social Security Administration Act 1992 as follows:

150A Annual up-rating of basic pension etc and standard minimum guarantee

- (11) The Secretary of State shall in each tax year review the following amounts in order to determine whether they have retained their value in relation to the general level of earnings obtaining in Great Britain
- (a) the amount of the basic pension;
 - (b) the specified amounts in the case of Category B, C or D retirement pensions;
 - (c) the specified amounts in the case of industrial death benefit; and
 - (d) the amounts of the standard minimum guarantee for the time being prescribed under section 2(4) and (5)(a) and (b) of the State Pension Credit Act 2002.
- (12) Where it appears to the Secretary of State that the general level of earnings is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an order which increases each of the amounts referred to in subsection (1) above by a percentage not less than the percentage by which the general level of earnings is greater at the end of the period than it was at the beginning.
- (13) Subsection (2) above does not require the Secretary of State to provide for an increase in any case if it appears to him that the amount of the increase would be inconsiderable.
- (14) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round the sum in question up or down to such extent as he thinks appropriate.
- (15) The Secretary of State shall lay with a draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary's opinion on the likely effect on the National Insurance Fund of any parts of the order relating to sums payable out of that Fund.
- (16) If a draft order laid before Parliament under this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (17) An order under this section shall be framed so as to bring the increase in question into force in the week beginning with the first Monday in the tax year following that in which the order is made.
- (18) For the purposes of any review under subsection (1) above the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.
- (19) If a draft order under this section is combined with a draft up-rating order under section 150 above, the report required by virtue of subsection (5) above may be combined with that required by virtue of section 150(8) above.
- (20) In this section –
- "the amount of the basic pension" means the first amount specified in section 44(4) of the Contributions and Benefits Act (weekly rate of Category A retirement pension);
- "the specified amounts in the case of Category B, C or D retirement pensions" means –
- (a) the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act, ~~and~~
 - (b) ~~the amounts specified in paragraphs 6 and 7 of Part 3 of that Schedule; and~~ **amount specified in paragraph 7 of Part 3 of that Schedule; and**
 - (c) **any amount specified in regulations under section 78(9) of the Contributions and Benefits Act for a Category C retirement pension;**

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"the specified amounts in the case of industrial death benefit" means –

- (a) the amounts specified in paragraph 10 of Part 5 of that Schedule (apart from the amount of the initial rate), and
- (b) the amount specified in paragraph 11 of that Part of that Schedule.

Schedule 12, Paragraph 79

Amends section 78 of the Social Security Contributions and Benefits Act 1992 as follows:

78 Category C and Category D retirement pensions and other benefits for the aged

- (1) A person who was over pensionable age on 5th July 1948 and who satisfies such conditions as may be prescribed shall be entitled to a Category C retirement pension at the appropriate weekly rate.
- (2) If a woman whose husband is entitled to a Category C retirement pension—
 - (a) is over pensionable age; and
 - (b) satisfies such other conditions as may be prescribed,she shall be entitled to a Category C retirement pension at the appropriate weekly rate.
- (3) A person who is over the age of 80 ~~and satisfies~~, **who reached pensionable age before 6 April 2016 and who satisfies** such conditions as may be prescribed shall be entitled to a Category D retirement pension at the appropriate weekly rate if—
 - (a) he is not entitled to a Category A, Category B or Category C retirement pension; or
 - (b) he is entitled to such a pension, but it is payable at a weekly rate which, disregarding those elements specified in subsection (4) below, is less than the appropriate weekly rate.
- (4) The elements referred to in subsection (3)(b) above are—
 - (a) any additional pension;
 - (b) any increase so far as attributable to—
 - (i) any additional pension, or
 - (ii) any increase in a guaranteed minimum pension;
 - (c) any graduated retirement benefit;
- (5) The appropriate weekly rate of a Category C retirement pension—
 - (a) shall be the lower rate specified in Schedule 4, Part III, paragraph 6, where—
 - (i) the pensioner is a married woman, and
 - (ii) she has not, at any time since she became entitled to her pension, ceased to be a married woman; and
 - (b) shall be the higher rate so specified in any other case.
- (6) The appropriate weekly rate of a Category D retirement pension shall be that specified in Schedule 4, Part III, paragraph 7.
- (7) Entitlement to a Category C or Category D retirement pension shall continue throughout the pensioner's life.
- (8) A Category C or Category D retirement pension shall not be payable for any period falling before the day on which the pensioner's entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act.
- (9) Regulations may provide for the payment—
 - (a) to a widow whose husband was over pensionable age on 5th July 1948; or
 - (b) to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death,of a Category C retirement pension or of benefit corresponding to a widow's pension or a widowed mother's allowance; and any such retirement pension or any such benefit shall be at the prescribed rate.

SCHEDULE 12 – State Pension: Amendments

Part 3: AMENDMENTS TO DO WITH STATE PENSION CREDIT

Schedule 12, Paragraphs 84 & 85

Amends the State Pension Credit Act 2002 as follows:

3 Savings credit

- ~~(1) The first of the conditions mentioned in section 1(2)(c)(ii) is that the claimant—~~
- ~~(a) has attained the age of 65; or~~
 - ~~(b) is a member of a couple, the other member of which has attained that age.~~
- (1) The first of the conditions mentioned in section 1(2)(c)(ii) is that the claimant—**
- (a) has attained pensionable age before 6 April 2016 and has attained the age of 65 (before, on or after that date), or**
 - (b) is a member of a couple, the other member of which falls within paragraph (a).**
- (2) The second of the conditions mentioned in section 1(2)(c)(ii) is that—
- (a) the claimant's qualifying income exceeds the savings credit threshold; and
 - (b) the claimant's income is such that, for the purposes of subsection (3), amount A exceeds amount B.
- (3) Where the claimant is entitled to a savings credit, the amount of the savings credit shall be the amount by which amount A exceeds amount B.
- (4) For the purposes of subsection (3)—
- “amount A” is the smaller of—
- (a) the maximum savings credit; and
 - (b) a prescribed percentage of the amount by which the claimant's qualifying income exceeds the savings credit threshold; and
- “amount B” is—
- (a) a prescribed percentage of the amount (if any) by which the claimant's income exceeds the appropriate minimum guarantee; or
 - (b) if there is no such excess, nil.
- (5) Where, by virtue of regulations under section 2(6), the claimant's appropriate minimum guarantee does not include the standard minimum guarantee, regulations may provide that the definition of “amount B” in subsection (4) shall have effect with the substitution for the reference in paragraph (a) to the appropriate minimum guarantee of a reference to a prescribed higher amount.
- (6) Regulations may make provision as to income which is, and income which is not, to be treated as qualifying income for the purposes of this section.
- (7) For the purposes of this section—
- “the savings credit threshold” is such amount as may be prescribed;
- “the maximum savings credit” is a prescribed percentage of the difference between—
- (a) the standard minimum guarantee; and
 - (b) the savings credit threshold.
- (8) Regulations may prescribe descriptions of persons in whose case the maximum savings credit shall be taken to be nil.

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

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- (1) Regulations may provide that, in prescribed cases, a person who is a member of a mixed-age couple is not entitled to a savings credit.**
- (2) For example, the regulations could provide that a member of a mixed-age couple is not entitled to a savings credit unless–**
 - (a) the person has been awarded a savings credit with effect from a day before 6 April 2016 and was entitled to a savings credit immediately before that date, and**
 - (b) the person remained entitled to state pension credit at all times since the beginning of 6 April 2016.**
- (3) In this section “mixed-age couple” means a couple (whenever formed) one member of which had attained pensionable age before 6 April 2016 and the other had not.**

SCHEDULE 12 – State Pension: Amendments

Part 4: OTHER AMENDMENTS TO DO WITH PART 1

Schedule 12, Paragraph 88

Amends section 39C of the Social Security Contributions and Benefits Act 1992 as follows:

39C Rate of widowed parent's allowance and bereavement allowance

- (1) The weekly rate of a widowed parent's allowance shall be determined in accordance with the provisions of section 44 to ~~45AA and Schedules 4A below as they apply~~ **45AA and Schedules 4A and 4B below as they apply** in the case of a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46 below.
- (2) The weekly rate of a bereavement allowance shall be determined in accordance with the provisions of section 44 below as they apply in the case of a Category A retirement pension so far as consisting only of the basic pension referred to in subsection (3)(a) of that section, but subject, in particular, to the following provisions of this section.
- (3) In the application of sections 44 to ~~45AA and Schedule 4A by virtue of subsection (1) above~~ **45AA and Schedules 4A and 4B below by virtue of subsection (1) or (2) above**—
 - (a) where the deceased spouse or civil partner was over pensionable age at his or her death, references in those provisions to the pensioner shall be taken as references to the deceased spouse or civil partner, and
 - (b) where the deceased spouse or civil partner was under pensionable age at his or her death, references in those provisions to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the deceased spouse or civil partner and the tax year in which he or she died.
- (4) Where a widowed parent's allowance is payable to a person whose spouse or civil partner dies after 5th October 2002, the additional pension falling to be calculated under sections 44 to ~~45AA and Schedule 4A below~~ **45AA and Schedules 4A and 4B below** by virtue of subsection (1) above shall be one half of the amount which it would be apart from this subsection.
- (5) Where a bereavement allowance is payable to a person who was under the age of 55 at the time of the spouse's or civil partner's death, the weekly rate of the allowance shall be reduced by 7 per cent of what it would be apart from this subsection multiplied by the number of years by which that person's age at that time was less than 55 (any fraction of a year being counted as a year).

Schedule 12, Paragraph 89

Amends Schedule 5 of the Social Security Contributions and Benefits Act 1992 as follows:

SCHEDULE 5

Increase of pension where pensioner's deceased spouse or civil partner has deferred entitlement

4

- (1) Subject to paragraph 8, this paragraph applies where a widow, widower or surviving civil partner ("W") is entitled to a Category A or Category B retirement pension and was married to or was the civil partner of the other party to the marriage or civil partnership ("S") when S died and one of the following conditions is met—
- (a) S was entitled to a Category A or Category B retirement pension with an increase under this Schedule,
 - (b) W is a widow, widower or surviving civil partner to whom paragraph 3C applies and has made an election under paragraph 3C (2)(a), or
 - (c) paragraph 3C would apply to W but for the fact that the condition in subparagraph (1)(d) of that paragraph is not met.
- (1A) Subject to sub-paragraph (3), the rate of W's pension shall be increased—
- (a) in a case falling within sub-paragraph (1)(a), by an amount equal to the increase to which S was entitled under this Schedule, apart from paragraphs 5 to 6A ~~(as these provisions have effect by virtue of section 2(7) of the Pensions Act 2014)~~,
 - (b) in a case falling within sub-paragraph (1)(b), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from ^{[1}paragraphs 5 to 6A ~~(as these provisions have effect by virtue of section 2(7) of the Pensions Act 2014)~~, if the period of deferment had ended immediately before S's death and S had then made an election under paragraph A1(1)(a), or
 - (c) in a case falling within sub-paragraph (1)(c), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from paragraphs 5 to 6A ~~(as these provisions have effect by virtue of section 2(7) of the Pensions Act 2014)~~, if the period of deferment had ended immediately before S's death.

Calculation of widowed person's or surviving civil partner's lump sum

7B

- (1) The widowed person's or surviving civil partner's lump sum is the accrued amount for the last accrual period beginning during the period which —
- (a) began at the beginning of S's period of deferment, and
 - (b) ended on the day before S's death.
- (2) In this paragraph— 'S' means the other party to the marriage or civil partnership; 'accrued amount' means the amount calculated in accordance with sub-paragraph (3); 'accrual period' means any period of seven days beginning with a prescribed day of the week, where that day falls within S's period of deferment.
- (3) The accrued amount for an accrual period for W is—

$$(A + P) \times 52 \sqrt{\frac{1 + R}{100}}$$

where —

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period mentioned in sub-paragraph (1), zero);

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P is—

- (a) the basic pension, and
- (b) half of the additional pension, to which S would have been entitled for the accrual period if his entitlement had not been deferred during the period mentioned in sub-paragraph (1);

R is—

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
 - (b) if regulations so provide, such higher rate as may be prescribed.
- (4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—
- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
 - (b) if regulations so provide, at such other time as may be prescribed.
- (5) For the purposes of the calculation of the widowed person's or surviving civil partner's lump sum, the amount of Category A or Category B retirement pension to which S would have been entitled for an accrual period—
- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
 - (b) does not include—
 - (i) any increase under section 83A or 85 or paragraphs 5 to 6A of this Schedule ~~(as those provisions have effect by virtue of section 2(7) of the Pensions Act 2014)~~,
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.
- (6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 46(5) of the Pensions Act were disregarded.
- (7) In any case where —
- (a) there is a period between the death of S and the date on which W becomes entitled to a Category A or Category B retirement pension, and
 - (b) one or more orders have come into force under section 150 of the Administration Act during that period,
- the amount of the lump sum shall be increased in accordance with that Order or those orders.

7

- (1) *Repealed under previous legislation.*
- (2) Where an amount is required to be calculated in accordance with the provisions of paragraphs 5, 5A, 6 or 6A or sub-paragraph (1) above—
 - (a) the amount so calculated shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above; and
 - (b) where the amount so calculated would, apart from this sub-paragraph, be a sum less than 1/2p, that amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Act or the Administration Act.

7ZA

- (1) **This paragraph modifies paragraphs 5A to 6A in cases where-**

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

SCHEDULE 13 – Abolition of contracting-out for salary related schemes

Part 1 – PENSION SCHEMES ACT 1993: AMENDMENTS

Schedule 13, Paragraph 7

Amends section 8 of the Pension Schemes Act 1993 as follows:

8 Meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment"

- ~~(1) The employment of an earner in employed earner's employment is "contracted-out employment" in relation to him during any period in which—~~
- ~~(a) he is under pensionable age;~~
 - ~~(aa) his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted-out by virtue of satisfying section 9(2) (in this Act referred to as "a salary related contracted-out scheme");~~
 - ~~(b) there is in force a contracting-out certificate issued by the Inland Revenue in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.~~

(1) In relation to any period before the second abolition date, the employment of an earner in employed earner's employment was "contracted-out employment" in relation to the earner during that period if-

- (a) the earner was under pensionable age;**
- (b) the earner's service in the employment was service which qualified the earner for a pension provided by a salary related contracted-out scheme; and**
- (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.**

(1A) In addition, in relation to any period before the abolition date, the employment of an earner in employed earner's employment was "contracted-out employment" in relation to him during that period if-

- (a) he was under pensionable age;**
- (b) his employer made minimum payments in respect of his employment to a money purchase contracted-out scheme, and**
- (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.**

(1B) In the following provisions of this Act "earner", in relation to a scheme, means a person who was an earner in contracted-out employment by reference to the scheme.

(2) In this Act-

"guaranteed minimum pension" means any pension which is provided ~~by an occupational pension scheme,~~ **by a scheme that was a salary related contracted-out scheme**, in accordance with the requirements of sections 13 and 17 to the extent to which its weekly rate is equal to the earner's or, as the case may be, the earner's widow's, widower's or surviving civil partner's guaranteed minimum as determined for the purposes of those sections respectively; and

"minimum payment", in relation to an earner's employment in any tax week, means the rebate percentage of so much of the earnings paid to or for the benefit of the earner in

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that week as exceeds the current lower earnings limit but not the applicable limit (or the prescribed equivalents if he is paid otherwise than weekly);

and for the purposes of this subsection "rebate percentage" means the appropriate flat rate percentage for the tax year in which the week falls as specified in an order made under section 42B (as it had effect before the abolition date).

- (2A) In subsection (2) "the applicable limit" means-
- (a) in relation to a tax year before 2009-10, the upper earnings limit;
 - (b) in relation to 2009-10 or any subsequent tax year, the upper accrual point.
- (3) Regulations may make provision-
- (a) for the manner in which, and time at which or period within which, minimum payments are to be made;
 - (b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;
 - (c) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
 - (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;
 - (e) for securing that liability is not avoided or reduced by the payment of earnings being made in accordance with any practice which is abnormal for the employment in respect of which the earnings are paid;
 - (f) without prejudice to paragraph (e), for enabling the Inland Revenue, where they are satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed;
 - (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and
 - (h) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period.
- ~~(4) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.~~
- (4) A contracting-out certificate that was in force in respect of an employed earner's employment is to be taken as conclusive that the employment was, at that time, contracted-out employment.**

Schedule 13, Paragraph 14

Amends section 13 of the Pension Schemes Act 1993 as follows:

13 Minimum pensions for earners

- (1) Subject to the provisions of this Part, the scheme must-
- (a) provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
 - (b) contain a rule to the effect that the weekly rate of the pension will be not less than his guaranteed minimum (if any) under sections 14 to 16.
- (1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1)(a) and (b) if the conditions specified in section 24B are satisfied.
- (2) In the case of an earner who ~~is a married woman or widow who is liable~~ **was a married woman or widow who was liable** to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the Social Security Contributions and Benefits Act 1992 **at a time during a relevant year when she was in contracted-out employment by reference to the scheme**, subject to the provisions of this Part, the scheme must-
- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age
 - (b) satisfy such other conditions as may be prescribed.
- “Relevant year” has the meaning given by section 14(8).**
- (3) Subject to subsection (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.
- (4) Subject to subsection (5), the scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age.
- (5) The scheme must provide for the earner's consent to be required-
- (a) for any such postponement by virtue of employment to which the scheme does not relate; and
 - (b) for any such postponement after the expiration of five years from the date on which he attains pensionable age.
- (6) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.
- (7) The benefits referred to in subsection (6) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which-
- (a) was for him non-participating employment under that legislation; and
 - (b) was not on its termination the subject of any payment in lieu of contributions;
- but subsection (6) excludes only so much of those benefits as had to be provided in order that the employment should for that period be treated as non-participating.
- (8) In this section "the former legislation" means Part III of the National Insurance Act 1965 and the previous corresponding enactments.

Schedule 13, Paragraph 15

Amends section 14 of the Pension Schemes Act 1993 as follows:

14 Earner's guaranteed minimum

- ~~(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme if in any tax week in a relevant year, earnings in excess of the current lower earnings limit (or the prescribed equivalent if he is paid otherwise than weekly) have been paid to or for his benefit in respect of employment which is contracted-out by reference to the scheme.~~
- (1) An earner has a guaranteed minimum in relation to the pension provided by a scheme that was a salary related contracted-out scheme if in any tax week in a relevant year-**
- (a) earnings were paid to or for the earner's benefit in respect of employment which was contracted-out by reference to the scheme; and**
- (b) those earnings were in excess of the lower earnings limit for that tax week (or the prescribed equivalent if the earner was paid otherwise than weekly).**
- (2) Subject to section 15(1), the guaranteed minimum shall be the weekly equivalent of an amount equal to the appropriate percentage of the total of the earner's earnings factors for the relevant years, so far as derived from ~~earnings such as are mentioned in subsection (1)~~ **excess earnings mentioned in subsection (1)(b)** upon which primary Class 1 contributions have been paid or treated as paid.
- (2A) Where any liability of a scheme in respect of an earner's guaranteed minimum pension ceases by virtue of a civil recovery order, his guaranteed minimum in relation to the scheme is extinguished or reduced accordingly.
- (3) *Repealed under previous legislation*
- (4) Where the amount of a person's earnings for any period is relevant for any purpose of subsection (1) or (2) and the Inland Revenue are satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, they may for that purpose-
- (a) compute, in such manner as they think fit, an amount which shall be regarded as the amount of those earnings; or
- (b) take their amount to be such sum as they may specify in the particular case.
- (5) In subsection (2) the "appropriate percentage" means-
- (a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-88-
- (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1.25 per cent.;
- (ii) in any other case 25/N per cent.;
- (b) in respect of the earner's earnings factors for the tax year 1988-89 and for subsequent tax years-
- (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;
- (ii) in any other case 20/N per cent.;
- where N is the number of years in the earner's working life (assuming he will attain pensionable age) which fall after 5th April 1978.
- (6) Regulations may prescribe rules as to the circumstances in which earnings factors are derived from earnings for the purposes of subsection (2).
- (7) For the purposes of subsection (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52.

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- (8) In this section "relevant year" means any tax year in the earner's working life (not being earlier than the tax year 1978-79 or later than the tax year ending immediately before the principal appointed day).

Schedule 13, Paragraph 17

Amends section 17 of the Pension Schemes Act 1993 as follows:

17 Minimum pensions for widows and widowers

- (1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a widow, widower or surviving civil partner (whether before or after attaining pensionable age), the widow, widower or surviving civil partner will be entitled to a guaranteed minimum pension under the scheme.
- (1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1) if the conditions specified in section 24B are satisfied.
- (2) The scheme must contain a rule to the effect that-
 - (a) if the earner is a man who has a guaranteed minimum under section 14, the weekly rate of the widow's pension will be not less than the widow's guaranteed minimum;
 - (b) if the earner is a woman who has a guaranteed minimum under that section, the weekly rate of the widower's pension will be not less than the widower's guaranteed minimum.
 - (c) if the earner is a person who has a guaranteed minimum under that section, the weekly rate of the surviving civil partner's pension will not be less than the surviving civil partner's guaranteed minimum.
- (3) The widow's guaranteed minimum shall be half that of the earner.
- (4) The widower's or surviving civil partner's guaranteed minimum shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.
- (4A) Subject to subsection (4B) the scheme must provide for the widow's, widower's or surviving civil partner's pension to be payable to the widow, widower or surviving civil partner –
 - (a) for any period for which a Category B retirement pension is payable to the widow, widower or surviving civil partner by virtue of the earner's contributions or would be so payable but for section 43(1) of the Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension);
 - (aa) for life, in a case where –**
 - (i) the widow, widower or surviving civil partner attained state pension age on or after the section abolition date, and**
 - (ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;**
 - (ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where-**
 - (i) the earner died before the widow, widower or surviving civil partner attained state pension age,**
 - (ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and**
 - (iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;**
 - (b) for any period for which widowed parent's allowance or bereavement allowance is payable to the widow, widower or surviving civil partner by virtue of the earner's contributions; and
 - (c) in the case of a widow, widower or surviving civil partner whose entitlement by virtue of the earner's contributions to a widowed parent's allowance or

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bereavement allowance has come to an end at a time after the widow, widower or surviving civil partner attained the age of 45, for so much of the period beginning with the time when the entitlement came to an end as neither-

(i) comprises a period during which the widow, widower or surviving civil partner and-

(a) a person of the opposite sex are living together as husband and wife; or

(b) a person of the same sex are living together as if they were civil partners; nor

(ii) falls after the time of any-

(a) marriage; or

(b) formation of a civil partnership

by the widow or widower or surviving civil partner which takes place after the earner's death.

(4B) Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner dies before 5th December 2005.

(5) The scheme must also make provision for the widow's pension to be payable to her for any period for which a widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions.

(6) The scheme must also make provision for the widower's or surviving civil partner's pension to be payable in the prescribed circumstances and for the prescribed period.

(7) The trustees or managers of the scheme shall supply to the Inland Revenue any such information as the Inland Revenue may require relating to the payment of pensions under the scheme to widows, widowers or surviving civil partners.

(8) Where-

(b) a lump sum is paid to an earner under provisions included in a scheme by virtue of section 21(1), and

(c) those provisions are of a prescribed description, the earner shall be treated for the purposes of this section as having any guaranteed minimum under section 14 that he would have had but for that payment.

(9) For the purposes of subsection (4A), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

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

Schedule 13, Paragraphs 23 & 24

Amends heading and text of section 37 of the Pension Schemes Act 1993 as follows:

*Alteration of ~~scheme rules after certification~~ **rules by former salary related contracted-out schemes***

37 Alteration of rules of contracted-out schemes

- ~~(1) Except in prescribed circumstances, the rules of a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.~~
- ~~(2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.~~
- ~~(3) References in this section to a salary related contracted-out scheme include a scheme which has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.~~
- (1) Except in prescribed cases, the rules of a scheme that was a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.**
- (2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.**
- (3) Subsection (1) does not apply to a scheme if no person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.**
- (4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person so entitled by virtue of being the widower or surviving civil partner of an earner only in such cases as may be prescribed.

Schedule 13, Paragraph 31

Amends section 48A of the Pension Schemes Act 1993 as follows:

48A Additional pension and other benefits

~~(1) In relation to any tax week where-~~

- ~~(a) the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 or, in the case of a week falling before the abolition date the first abolition date, under section 42A (as it then had effect), or~~
- ~~(b) in the case of a week falling before the abolition date the first abolition date, an amount is paid under section 45(1) (as it then had effect) in respect of the earnings paid to or for the benefit of an earner,~~

In relation to -

- (a) any tax week falling before the first abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 42A of this Act (as it then had effect),**
- (b) any tax week falling before the second abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 41 of this Act (as it then had effect), or**
- (c) any tax week falling before the first abolition date where an amount was paid under section 45(1) of this Act (as it then had effect) in respect of the earnings paid to or for the benefit of an earner,**

section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no such primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).

- (2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).
- (3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.
- (4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).
- (5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) or (5A) of that Act.

Schedule 13, Paragraph 38

Amends section 87 of the Pension Schemes Act 1993 as follows:

87 General protection principle

- (1) This subsection applies where—
- (a) there is an interval between—
 - ~~(i) the date on which an earner ceases to be in employment which is contracted out by reference to an occupational pension scheme that satisfies the requirements of section 9(2) (“the cessation date”); and~~
 - (i) the date (“the cessation date”) which is the earlier of —**
 - (a) the date on which an earner ceases to be in pensionable service under a scheme that was, before the second abolition date, a salary related contracted-out scheme; and**
 - (b) the date on which the earner attains pensionable age;**
 - (b) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
 - (b) the relevant sum exceeds his guaranteed minimum on the day after the cessation date; and
 - (c) on the commencement of payment date or at any time after it his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the cessation date.
- (2) This subsection applies where—
- (a) there is an interval between the earner’s cessation date and whichever of the following is the earlier—
 - (i) the date of his death; or
 - (ii) his commencement of payment date;
 - (b) the relevant sum exceeds one half of the earner’s guaranteed minimum on the day after the cessation date; and
 - (c) at any time when a pension under the occupational pension scheme is required to be paid to the earner’s widow, widower or surviving civil partner, the widow’s, widower’s or surviving civil partner’s (as the case may be) guaranteed minimum pension under the scheme exceeds one half of the earner’s guaranteed minimum on the day after the cessation date.
- (3) Where subsection (1) or (2) applies, the weekly rate of the pension payable to the member at any time when that pension is required to be paid or, as the case may be, payable to the widow, widower or surviving civil partner at any such time as is mentioned in subsection (2)(c) shall be an amount not less—
- (a) in a case where by virtue of section 73(2)(b) a pension is provided by way of complete substitute for short service benefit or, as the case may be, for widow’s, widower’s or surviving civil partner’s pension, that the weekly rate of that pension; and
 - (b) in any other case, than the relevant aggregate.
- (4) In subsection (3) “the relevant aggregate” means the aggregate of the following—
- (a) the relevant sum;
 - (b) the excess mentioned in subsection (1)(c) or, as the case may be, subsection (2)(c);
 - (c) any amount which is an appropriate addition at the time in question; and

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- (d) where the scheme provides that part of the earner's or, as the case may be, the widow's, widower's or surviving civil partner's pension shall accrue after the cessation date by reason of the earner's employment after that date, the later earnings addition.
- (5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before 1st January 1985, they are to be disregarded for the purposes of subsections (1)(c), (2)(c) and (4)(b).
- (6) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.
- (7) This section does not apply to a pension to which a person is entitled in respect of employment if—
 - (a) the earner left the employment or left it for the last time before 1st January 1985; or
 - (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him before that date.

Schedule 13, Paragraph 43

Amends section 181 of the Pension Schemes Act 1993 as follows:

181 General interpretation

(1) In this Act, unless the context otherwise requires-

~~"abolition date" means the day appointed for the commencement of section 15(1) of the Pensions Act 2007;~~

"age", in relation to any person, shall be construed so that-

(a) he is over or under a particular age if he has or, as the case may be, has not attained that age;

(b) he is between two particular ages if he has attained the first but not the second;

"appropriate scheme" and "appropriate scheme certificate" are to be construed in accordance with ~~section 181A~~ **section 7B**;

"Category A retirement pension" and "Category B retirement pension" mean the retirement pensions of those descriptions payable under Part II of the Social Security Contributions and Benefits Act 1992;

"civil recovery order" means an order under section 266 of the Proceeds of Crime Act 2002 or an order under section 276 imposing the requirement mentioned in section 277(3);

"contract of service" has the same meaning as in section 122(1) of the Social Security Contributions and Benefits Act 1992;

"contracted-out employment" shall be construed in accordance with section 8;

"contracting-out certificate" and references to a contracted-out scheme and to contracting-out shall be construed in accordance with ~~section 7 and section 181A~~ **section 7B**;

~~"contributions equivalent premium" has the meaning given in~~ **means a premium that was paid under** section 55(2) ;

"earner" and "earnings" shall be construed in accordance with **section 8(1B) of this Act and** sections 3, 4 and 112 of the Social Security Contributions and Benefits Act 1992;

"earnings factors" shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits Act 1992;

"employed earner" and "self-employed earner" have the meanings given by section 2 of the Social Security Contributions and Benefits Act 1992;

"employee" means a person gainfully employed in Great Britain either under a contract of service or in an office (including an elective office) with general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ;

"employer" means-

(a) in the case of an employed earner employed under a contract of service, his employer;

(b) in the case of an employed earner employed in an office with emoluments-

(i) such person as may be prescribed in relation to that office; or

(ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;

"employment" includes any trade, business, profession, office or vocation and

"employed" shall be construed accordingly except in the expression "employed earner";

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"Financial Services Compensation Scheme" means the Financial Services Compensation Scheme referred to in section 213(2) of the Financial Services and Markets Act 2000;

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

"guaranteed minimum pension" has the meaning given section 8(2);

"HMRC" means the Commissioners for Her Majesty's Revenue and Customs;

"independent trade union" has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992;

"employment tribunal" means a tribunal established or having effect as if established under section 1(1) of the Employment Tribunals Act 1996 ;

"the Inland Revenue" means the Commissioners of Inland Revenue;

"linked qualifying service" has the meaning given in section 179;

"long-term benefit" has the meaning given in section 20(2) of the Social Security Contributions and Benefits Act 1992;

"lower earnings limit" and "upper earnings limit" shall be construed in accordance with section 5 of the Social Security Contributions and Benefits Act 1992 and "current", in relation to those limits, means for the time being in force;

"minimum contributions" shall be construed in accordance with sections 43 to 45;

"minimum payment" has the meaning given in section 8(2);

"modifications" includes additions, omissions and amendments, and related expressions shall be construed accordingly;

"money purchase benefits", in relation to a member of a personal or occupational pension scheme or the widow, widower or surviving civil partner of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and which are not average salary benefits ;

"money purchase contracted-out scheme" is to be construed in accordance with ~~section 481A~~ **section 7B**;

"money purchase scheme" means a pension scheme under which all the benefits that may be provided are money purchase benefits;

"normal pension age" has the meaning given in section 180;

"occupational pension scheme" has the meaning given in section 1;

"overseas arrangement" means a scheme or arrangement which-

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
- (b) is administered wholly or primarily outside Great Britain;
- (c) is not an appropriate scheme; and
- (d) is not an occupational pension scheme;

"pension credit" means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;

"pension debit" means a debit under section 29(1)(a) of the Welfare Reform and Pensions Act 1999;

"pensionable age"-

- (a) so far as any provisions (other than sections 46 to 48) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and

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(b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.

"pensionable service" has the meaning given in section 70(2);

"personal pension scheme" has the meaning given in section 1;

"prescribe" means prescribe by regulations and "prescribed" shall be construed accordingly;

"the preservation requirements" has the meaning given in section 69(2);

"primary Class 1 contributions" and "secondary Class 1 contributions" have the same meanings as in the Social Security Contributions and Benefits Act 1992;

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

"protected rights" has the meaning given in section 10, as it had effect immediately prior to ~~the abolition date~~ **the first abolition date;**

"public service pension scheme" has the meaning given in section 1;

"regulations" means regulations made by the Secretary of State under this Act;

"the Regulatory Authority" means the Pensions Regulator;

"resources", in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme;

"rights", in relation to accrued rights (within the meaning of section 73, 136 or 179) or transfer credits, includes rights to benefit and also options to have benefits paid in a particular form or at a particular time;

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

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

"short service benefit" has the meaning given in section 71(2);

"tax week" means one of the successive periods in a tax year beginning with the first day of that year and every seventh day thereafter, the last day of a tax year (or, in a leap year, the last two days) being treated accordingly as a separate tax week;

"tax year" means the 12 months beginning with 6th April in any year;

"trade or business", in relation to a public or local authority, includes the exercise and performance of the powers and duties of the authority;

"transfer credits" means rights allowed to an earner under the rules of an occupational pension scheme by reference to -

(a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than rights attributable (directly or indirectly) to a pension credit, or

(b) a cash transfer sum paid under Chapter 5 of Part 4 in respect of him, to the trustees or managers of the scheme;

"the upper accrual point" has the meaning given by section 122 of the Social Security Contributions and Benefits Act 1992;

"week" means a period of seven days beginning with Sunday;

"working life", in relation to a person, means the period beginning with the tax year in which the person attains the age of 16 and ending with-

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- (a) the tax year before the one in which the person attains the age of 65 in the case of a man or 60 in the case of a woman, or
 - (b) if earlier, the tax year before the one in which the person dies.
- (2) References to employers in the provisions of this Act (other than sections 123 to 127, 157, and 160 ("the excluded provisions")) are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those provisions.
- (3) Subject to any such regulations, references to an employer in any of the provisions of this Act (other than the excluded provisions or Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections, 153(2), 158(1) to (5), 162, 163, and 176) shall, in relation to an earner employed in an office with emoluments, be construed as references to-
- (a) such person as may be prescribed in relation to that office; or
 - (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.
- (4) Regulations may for any purpose of any provision of this Act (other than the excluded provisions or section 31, 43, 111, 160, 164, 165 or 169) prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.
- (5) In sections 165 and 166-
- (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and
 - (b) references to Great Britain include references to the territorial waters of the United Kingdom adjacent to Great Britain.
- (6) Any reference in section 185 or 186 to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with it; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.
- (7) In the application of section 158 to Northern Ireland any reference to a government department is to be taken to be, or to include (as the context may require), a Northern Ireland department.

SCHEDULE 13 – Abolition of contracting-out for salary related schemes

Part 2 – OTHER ACTS: AMENDMENTS

Schedule 13, Paragraph 49

Amends section 1 of the Social Security Contributions and Benefits Act 1992 as follows:

1 Outline of contributory system

- (1) The funds required-
- (a) for paying such benefits under this Act as are payable out of the National Insurance Fund and not out of other public money; and
 - (b) for the making of payments under section 162 of the Administration Act towards the cost of the National Health Service,
- shall be provided by means of contributions payable to the Inland Revenue by earners, employers and others, together with the additions under subsection (5) below and amounts payable under section 2 of the Social Security Act 1993.
- (2) Contributions under this Part of this Act shall be of the following six classes-
- (a) Class 1, earnings-related, payable under section 6 below, being-
 - (i) primary Class 1 contributions from employed earners; and
 - (ii) secondary Class 1 contributions from employers and other persons paying earnings;
 - (b) Class 1A, payable under section 10 below by persons liable to pay secondary Class 1 contributions and certain other persons;
 - (bb) Class 1B, payable under section 10A below by persons who are accountable to the Inland Revenue in respect of income tax on general earnings in accordance with a PAYE settlement agreement;
 - (c) Class 2, flat-rate, payable weekly under section 11 below by self-employed earners;
 - (d) Class 3, payable under section 13 or 13A below by earners and others voluntarily with a view to providing entitlement to benefit, or making up entitlement; and
 - (e) Class 4, payable under section 15 below in respect of the profits or gains of a trade, profession or vocation, or under section 18 below in respect of equivalent earnings.
- (3) The amounts and rates of contributions in this Part of this Act and the other figures in it which affect the liability of contributors shall-
- (a) be subject to regulations under sections 19(4) and 116 to 120 below; and
 - (b) to the extent provided for by Part IX of the Administration Act be subject to alteration by orders made by the Treasury from year to year under that Part,
- ~~and the provisions of this Part of this Act are subject to the provisions of Chapter II of Part III of the Pensions Act (reduction in state scheme contributions and benefits for members of certified schemes).~~
- (4) Schedule 1 to this Act-
- (a) shall have effect with respect to the computation, collection and recovery of contributions of Classes 1, 1A, 1B, 2 and 3, and otherwise with respect to contributions of those classes; and

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- (b) shall also, to the extent provided by regulations made under section 18 below, have effect with respect to the computation, collection and recovery of Class 4 contributions, and otherwise with respect to such contributions.
- (5) For each financial year there shall, by way of addition to contributions, be paid out of money provided by Parliament, in such manner and at such times as the Treasury may determine, amounts the total of which for any such year is equal to the aggregate of all statutory sick pay , statutory maternity pay, ordinary statutory paternity pay, additional statutory paternity pay and statutory adoption pay recovered by employers and others in that year, as estimated by the Government Actuary or the Deputy Government Actuary.
- (6) No person shall-
 - (a) be liable to pay Class 1, Class 1A, Class 1B or Class 2 contributions unless he fulfils prescribed conditions as to residence or presence in Great Britain;
 - (b) be entitled to pay Class 3 contributions unless he fulfils such conditions; or
 - (c) be entitled to pay Class 1, Class 1A , Class 1B or Class 2 contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.
- (7) Regulations under subsection (6) above shall be made by the Treasury.

Schedule 13, Paragraph 50

Amends section 4C of the Social Security Contributions and Benefits Act 1992 as follows:

4C Power to make provision in consequence of provision made by or by virtue of section 4B(2) etc

- (1) The Treasury may by regulations made with the concurrence of the Secretary of State make such provision as appears to the Treasury to be expedient for any of the purposes mentioned in subsection (2) in consequence of any provision made by or by virtue of section 4B(2).
- (2) Those purposes are-
 - (a) any purpose relating to any contributions;
 - (b) any purpose relating to any contributory benefit or contribution-based jobseeker's allowance;
 - (c) any purpose relating to any statutory payment;
 - (d) any purpose relating to minimum payments (within the meaning of the Pensions Act) by employers to occupational pension schemes;
 - (e) any purpose of Chapter 2 of Part 3 of that Act (reduction in state scheme contributions and benefits for members of certified schemes);
 - (f) such other purposes as may be prescribed by regulations made by the Treasury with the concurrence of the Secretary of State.
- (3) Regulations under subsection (1) may, in particular, make provision-
 - (a) modifying any provision of any enactment (including this Act and any enactment passed or made on or after the commencement day);
 - (b) for any provision of any such enactment to apply in such cases, and with such modifications (if any), as the regulations may prescribe.
- (4) Regulations under subsection (1) may be made so as to have retrospective effect but must not have effect in relation to any time before 2nd December 2004.
- (5) In particular, regulations under subsection (1) made by virtue of subsection (4) may affect any of the following matters-
 - (a) ~~liability to pay contributions, including liability to pay Class 1 contributions at a reduced rate by virtue of Chapter 2 of Part 3 of the Pensions Act;~~
 - (b) ~~the amount of any contribution, including the amount of any such reduced rate contribution and of any related rebate under section 41(1D) or 42A(2C) of that Act;~~
 - (c) entitlement to a contributory benefit or contribution-based jobseeker's allowance;
 - (d) the amount of any such benefit or allowance;
 - (e) entitlement to a statutory payment;
 - (f) the amount of any such payment;
 - (g) liability to make minimum payments (within the meaning of the Pensions Act) to occupational pension schemes;
 - (h) the amount of any such payment;
 - (i) liability to make payments under section 42A(3) of the Pensions Act or to pay minimum contributions under section 43 of that Act;
 - (j) the amount of any such payment or contribution.

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- (6) In such a case, where the matter has been determined before the time when the regulations are made, the regulations may provide for the matter to be redetermined accordingly.
- (7) If (ignoring this subsection) the operative provisions would directly or indirectly have effect in any case so as-
- (a) to remove a person's entitlement to a contributory benefit, contribution-based jobseeker's allowance or statutory payment, or
 - (b) to reduce the amount of any such benefit, allowance or payment to which a person has an entitlement,
- those provisions are to be read with such modifications as are necessary to ensure that they do not have that effect.
- (8) For the purposes of subsection (7)-
- (a) "the operative provisions" are section 4B(7) to (10) and any provision made by virtue of section 4B(2) or under subsection (1) of this section;
 - (b) a person's "entitlement" includes any future entitlement which the person may have.
- (9) The powers conferred by this section are without prejudice to any powers conferred by or by virtue of any other provision of this Act or any other enactment.
- (10) In particular, any modification of any provision of an instrument by regulations made under subsection (1) is without prejudice to any other power to amend or revoke the provisions of the instrument (including the modified provision).
- (11) For the purposes of this section-
- "the commencement day" means the day on which the National Insurance Contributions Act 2006 was passed;
- "enactment" includes an instrument made under an Act;
- "statutory payment" means-
- (a) statutory sick pay, statutory maternity pay, ordinary statutory paternity pay, additional statutory paternity pay or statutory adoption pay; or
 - (b) any other payment prescribed by regulations made by the Treasury with the concurrence of the Secretary of State.

Schedule 13, Paragraph 54

Amends Schedule 1 of the Social Security Contributions and Benefits Act 1992 as follows:

Supplementary provisions relating to contributions of Classes 1, 1A, 2 and 3

Class 1 contributions where earner employed in more than one Employment

1 Supplementary provisions relating to national insurance contributions

(1) For the purposes of determining whether Class 1 contributions are payable in respect of earnings paid to an earner in a given week and, if so, the amount of the contributions—

- (a) all earnings paid to him or for his benefit in that week in respect of one or more employed earner's employments under the same employer shall, except as may be provided by regulations, be aggregated and treated as a single payment of earnings in respect of one such employment; and
- (b) earnings paid to him or for his benefit in that week by different persons in respect of different employed earner's employments shall in prescribed circumstances be aggregated and treated as a single payment of earnings in respect of one such employment;

and regulations may provide that the provisions of this sub-paragraph shall have effect in cases prescribed by the regulations as if for any reference to a week there were substituted a reference to a period prescribed by the regulations.

~~(2) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above, then, except as may be provided by regulations—~~

- ~~(a) if the aggregated earnings exceed the current primary threshold, the amount of the primary Class 1 contribution in respect of the aggregated earnings attributable to section 8(1)(a) above shall be determined in accordance with sub-paragraph (3) below; and~~
- ~~(b) if the aggregated earnings exceed the current secondary threshold, the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (6) below.~~

~~(3) The amount of the primary Class 1 contribution attributable to section 8(1)(a) above shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—~~

- ~~(a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 43(1) of the Pension Schemes Act 1993 (contributions to personal pension schemes), the amount obtained by applying the main primary percentage that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings so attributable as exceeds the current primary threshold and does not exceed the current upper earnings limit (referred to in this paragraph as "the APPS earnings"),~~
- ~~(b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the main primary percentage that would apply if all the aggregated earnings were attributable to COMPS service—~~
 - ~~(i) to such part of the aggregated earnings attributable to COMPS service as exceeds the current primary threshold and does not exceed the upper accrual point, or~~
 - ~~(ii) if paragraph (a) applies, to such part of the earnings attributable to COMPS service as, when added to the APPS earnings, exceeds the current primary threshold and does not exceed the upper accrual point,~~

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- ~~(ba) if paragraph (b) applies, the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COMPS service as, when added to the APPS earnings (if any), exceeds the upper accrual point and does not exceed the current upper earnings limit,~~
- ~~(c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the main primary percentage that would apply if all the aggregated earnings were attributable to COSRS service—~~
 - ~~(i) to such part of the aggregated earnings attributable to COSRS service as exceeds the current primary threshold and does not exceed the upper accrual point, or~~
 - ~~(ii) if paragraph (a) or (b) applies, to such part of the earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), exceeds the current primary threshold and does not exceed the upper accrual point,~~
- ~~(ca) if paragraph (c) applies, the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), exceeds the upper accrual point and does not exceed the current upper earnings limit,~~
- ~~(d) the amount obtained by applying the main primary percentage that would apply if all the aggregated earnings were attributable to employments which are not contracted out to such part of the aggregated earnings as, when added to the part or parts attributable to COMPS or COSRS service, exceeds the current primary threshold and does not exceed the current upper earnings limit.~~
- ~~(4) Repealed under previous legislation~~
- ~~(5) Repealed under previous legislation~~
- ~~(6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—~~
 - ~~(a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 43(1) of the Pension Schemes Act 1993, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted out to such part of the APPS earnings as exceeds the secondary threshold,~~
 - ~~(b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service to such part of the aggregated earnings attributable to such service as exceeds the secondary threshold,~~
 - ~~(c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service to such part of the aggregated earnings attributable to such service as exceeds the secondary threshold,~~
 - ~~(d) the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted out to such part of the remainder of the aggregated earnings as exceeds the secondary threshold.~~
- (7) Where any single payment of earnings is made in respect of two or more employed earner's employments under different employers, liability for Class 1 contributions shall be determined by apportioning the payment to such one or more of the employers as

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may be prescribed, and treating a part apportioned to any employer as a separate payment of earnings by him.

- (8) Where earnings are aggregated under sub-paragraph (1)(b) above, liability (if any) for the secondary contribution shall be apportioned, in such manner as may be prescribed, between the secondary contributors concerned.
- (8A) Regulations under any provision of this paragraph shall be made by the Inland Revenue
- ~~(9) In this paragraph—~~
~~“COMPS service” means service in employment in respect of which minimum payments are made to a money purchase contracted-out scheme,~~
~~“COSRS service” means service in employment which qualifies the earner for a pension provided by a salary related contracted-out scheme.]~~
- ~~(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—~~
~~(a) the primary or secondary threshold, or~~
~~(b) the upper earnings limit,~~
~~shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.~~
- ~~(11) In relation to such earners, any reference in this paragraph to the upper accrual point is to be read as a reference to the prescribed equivalent (see section 122(6A))~~

Schedule 13, Paragraph 56

Amends section 150 of the Social Security Administration Act 1992 as follows:

150 Annual up-rating of benefits

- (13) The Secretary of State shall in each tax year review the sums-
- (a) specified in the following provisions of the Contributions and Benefits Act-
 - (i) Schedule 4 (excluding the provisions of Parts 1, 3 and 5 of the Schedule that specify amounts mentioned in section 150A(1) below); and
 - (ii) section 44(4) so far as relating to the lower rate of short-term incapacity benefit;
 - (iii) paragraphs 2(6)(c) and 6(2)(b) of Schedule 8;
 - (bb) specified in regulations under section 30B(7) of that Act;
 - (ab) specified in regulations under section 39(2A) or section 39C(1A) of that Act;
 - (b) specified in regulations under section 72(3) or 73(10) of that Act;
 - (c) which are the additional pensions in long-term benefits;
 - (ca) which are shared additional pensions;
 - (d) which are the increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act;
 - (dza) which are lump sums to which surviving spouses or civil partners will become entitled under paragraph 7A of that Schedule on becoming entitled to a Category A or Category B retirement pension;
 - (da) which are the increases in the rates of shared additional pensions under paragraph 2 of Schedule 5A to that Act;
 - (e) which are-
 - (i) payable by virtue of section 15(1) of the Pensions Act to a relevant person (including sums payable by virtue of section 17(2)); or
 - (ii) payable to such a person as part of his Category A or Category B retirement pension by virtue of an order made under this section by virtue of this paragraph or made under section 126A of the 1975 Act or section 63(1)(d) of the 1986 Act;
 - (f) *Repealed under previous legislation*
 - (g) falling to be calculated under paragraph 13(4) of Schedule 7 to that Act;
 - (h) prescribed for the purposes of section 128(5) or 129(8) of that Act or specified in regulations under section 135(1) of that Act;
 - (i) specified by virtue of section 145(1) of that Act;
 - (j) specified in section 157(1) of that Act or in regulations under section 166(1)(b), 171ZE(1) , 171ZEE(1) or 171ZN(1);
 - (k) specified in regulations under section 4(2) or (5) of the Jobseekers Act 1995;
 - (l) specified in regulations under section 2 or 3 of the State Pension Credit Act 2002 (other than those prescribing the amounts mentioned in section 150A(1)(d) below);
 - (m) specified in regulations under section 2(1)(a) or (4)(c) or 4(2)(a) or (6)(c) of the Welfare Reform Act 2007;
 - (n) specified in regulations under sections 9 to 12 of the Welfare Reform Act 2012;
 - (o) specified in regulations under section 78(3) or 79(3) of that Act;

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in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit.

- (1A) In subsection (1)(e)(i) "relevant person" means a person-
- (c) who became entitled to a Category A or Category B retirement pension before the day on which section 2(1) of the Pensions Act 2011 comes into force, and
 - (d) to whom sums became payable by virtue of section 15(1) of the Pension Schemes Act 1993 (including sums payable by virtue of section 17(2)) before that day.
- (1B) In subsection (1A)-
- (c) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
 - (d) a reference to sums becoming payable before a day includes a reference to sums becoming payable on or after that day in respect of a period before that day.
- (14) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an up-rating order-
- (a) which increases each of the sums to which subsection (3) below applies by a percentage not less than the percentage by which the general level of prices is greater at the end of the period than it was at the beginning; and
 - (b) if he considers it appropriate, having regard to the national economic situation and any other matters which he considers relevant, which also increases by such a percentage or percentages as he thinks fit any of the sums mentioned in subsection (1) above but to which subsection (3) below does not apply; and
 - (c) stating the amount of any sums which are mentioned in subsection (1) above but which the order does not increase.
- (15) This subsection applies to sums-
- (a) specified in Part I, paragraphs 1 to 5 of Part III, Part IV or Part V of Schedule 4 to the Contributions and Benefits Act (excluding the provisions of Parts 1 and 5 of the Schedule that specify amounts mentioned in section 150A(1) below);
 - (b) mentioned in subsection (1)(a)(ii) or (iii), (aa), (ab), (b), (c), (d), (dza), (e) (g) or (o) above.
- (16) Subsection (2) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable.
- (17) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round any sum up or down to such extent as he thinks appropriate.
- (18) Where subsection (2) above requires the Secretary of State to lay before Parliament the draft of an order increasing any sum that could be reduced under section 154(1) below, the order may make such alteration to that sum as reflects the combined effect of that increase and of any reduction that could be made under that subsection.
- (19) If the Secretary of State considers it appropriate to do so, he may include in the draft of an up-rating order, in addition to any other provisions, provisions increasing any of the sums for the time being specified in regulations under Part VII of the Contributions and Benefits Act or under the Jobseekers Act 1995, the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007 or Part 1 of the Welfare Reform Act 2012, or which are additions to income support under regulations made under section 89 of the 1986 Act.

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The reference to regulations under the State Pension Credit Act 2002 does not include those prescribing the amounts mentioned in section 150A(1)(d) below.

- (7A) The Secretary of State—
- (a) shall in each tax year review the amount specified under subsection (5) of section 96 of the Welfare Reform Act 2012 (benefit cap) to determine whether its relationship with estimated average earnings (within the meaning of that section) has changed, and
 - (b) after that review may, if the Secretary of State considers it appropriate, include in the draft of an up-rating order provision increasing or decreasing that amount.
- (20) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary's opinion on the likely effect on the National Insurance Fund of such parts of the order as relate to sums payable out of that Fund.
- (21) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (22) An order under this section-
- (a) shall be framed so as to bring the alterations to which it relates into force-
 - (i) in the week beginning with the first Monday in the tax year following that in which the order is made; or
 - (ii) on such earlier date in April as may be specified in the order;
 - (b) may make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement-
 - (i) to working families' tax credit;
 - (ii) to disabled person's tax credit; or
 - (iii) to statutory sick pay,running at the date when the alterations come into force.
- (10A) Where a member of a scheme which was at a time before ~~the abolition date, as defined by section 181(1) of the Pensions Act 2007~~ **6 April 2012 (the date appointed for the commencement of section 15(1) of the Pensions Act 2007)** an appropriate personal pension scheme or a money purchase contracted-out scheme continues in employment after attaining pensionable age and the commencement of his pension under the scheme is postponed, the preceding provisions of this section shall have effect as if-
- (c) the guaranteed minimum pension to which he is treated as entitled by virtue of section 48(2)(a) of the Pensions Act were subject to increases in accordance with the provisions of section 15(1) of that Act; and
 - (d) the amounts of any notional increases referred to in paragraph (a) above were subject to annual up-rating in the same way as if they were sums to which subsection (1)(e)(i) above applied.
- (10B) Subsection (10A) does not have effect unless-
- (c) the member became entitled to a Category A or Category B retirement pension before the day on which section 2(2) of the Pensions Act 2011 comes into force, and
 - (d) the member's postponed pension under the scheme became payable before that day.
- (10C) In subsection (10B)-

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- (c) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
 - (d) a reference to a pension becoming payable before a day includes a reference to a pension becoming payable on or after that day in respect of a period before that day.
- (23) So long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision for applying the provisions of this section
- (a) to the amount of graduated retirement benefit payable for each unit of graduated contributions,
 - (b) to increases of such benefit under any provisions made by virtue of section 24(1)(b) of the Social Security Pensions Act 1975 or section 62(1)(a) of the Contributions and Benefits Act, and
 - (c) to any addition under section 37(1) of the National Insurance Act 1965 (addition to weekly rate of retirement pension for widows and widowers) to the amount of such benefit.
- (24) So long as sections 36 and 37 of the National Insurance Act 1965 continue in force as mentioned in subsection (11), this section applies as if subsections (1) and (3) included the sums mentioned in subsection (13).
- (25) Those sums are lump sums to which surviving spouses or civil partners will become entitled, by virtue of regulations made under section 62(1)(c) of the Contributions and Benefits Act, on becoming entitled to-
- (a) a Category A or Category B retirement pension; or
 - (b) graduated retirement benefit.

Schedule 13, Paragraph 59

Amends section 51 of the Pensions Act 1995 as follows:

51 Annual increase in rate of pension

- (1) Subject to subsections (6) and (7) this section applies to a pension under an occupational pension scheme if-
- (a) the scheme-
 - (i) is a registered pension scheme under section 153 of the Finance Act 2004, and
 - (ii) is not a public service pension scheme, and
 - (iii) in the case where the pension becomes a pension in payment on or after the commencement day, is not a money purchase scheme, and
 - (b) the whole, or any part of, the pension is attributable-
 - (i) to pensionable service on or after ~~the appointed day~~ **6 April 1997**, or
 - (ii) in the case of money purchase benefits where the pension is in payment before the commencement day, to payments in respect of employment carried on or after ~~the appointed day~~ **6 April 1997**, and
 - (c) apart from this section-
 - (i) the annual rate of the pension, or
 - (ii) if only part of the pension is attributable as described in paragraph (b), so much of the annual rate as is attributable to that part,

would not be increased each year by at least the appropriate percentage of that rate.
- (2) Subject to sections 51A and 52, where a pension to which this section applies, or any part of it, is attributable to pensionable service on or after ~~the appointed day~~ **6 April 1997** or, in the case of money purchase benefits where the pension is in payment before the commencement day, to payments in respect of employment carried on or after ~~the appointed day~~ **6 April 1997**-
- (a) the annual rate of the pension, or
 - (b) if only part of the pension is attributable to pensionable service or, as the case may be, to payments in respect of employment carried on or after ~~the appointed day~~ **6 April 1997**, so much of the annual rate as is attributable to that part,
- must be increased annually by at least the appropriate percentage.
- (3) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being being increased at intervals of not more than twelve months by at least the relevant percentage.
- (4) For the purposes of subsection (3) the relevant percentage is-
- (a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
 - (b) if lower, the default percentage for that period.
- (4ZA) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if subsection (4ZB) applies to the rate or part.
- (4ZB) Subject to subsection (4ZD), this subsection applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being being increased, and since the relevant time has always been increased, at intervals of not more than twelve months by at least-

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- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
 - (b) if lower, the default percentage for that period.
- (4ZC) In subsection (4ZB) "the relevant time" means-
- (a) the beginning of 2011 or, if later, the time when the pension became a pension in payment, or
 - (b) if the pension was transferred to the scheme from another occupational pension scheme as a pension in payment after the beginning of 2011, the time of the transfer.
- (4ZD) If the pension was transferred to the scheme as mentioned in subsection (4ZC)(b), subsection (4ZB) does not apply to the rate or part unless, immediately before the transfer, subsection (4ZB) (read with this subsection if relevant) applied to the rate or part by reference to the scheme from which the pension was transferred (or would have applied had subsection (4ZB) been in force immediately before the transfer).
- (4ZE) If only part of the pension is attributable to pensionable service or, as the case may be, to payments in respect of employment carried on or after ~~the appointed day~~ **6 April 1997**, in subsections (3) to (4ZD) references to the annual rate of the pension are references to so much of that rate as is attributable to that part.
- (4ZF) For the purposes of subsections (4) and (4ZB) the default percentage for a period is the percentage for that period which corresponds to-
- (a) in the case of a category X pension, 5% per annum, and
 - (b) in the case of a category Y pension, 2.5% per annum.
- (4ZG) In subsections (4) and (4ZB)-
- "consumer prices index" means-
- (a) the general index of consumer prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board;
- "retail prices index" means-
- (a) the general index of retail prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board.
- (4A) For the purposes of this section, a pension is a category X pension if it is-
- (a) a pension which became a pension in payment before the commencement day, or
 - (b) a pension-
 - (i) which becomes a pension in payment on or after the commencement day, and
 - (ii) the whole of which is attributable to pensionable service before that day.
- (4B) For the purposes of this section, a pension is a category Y pension if it is a pension-
- (a) which becomes a pension in payment on or after the commencement day, and
 - (b) the whole of which is attributable to pensionable service on or after the commencement day.
- (4C) For the purposes of applying this section in the case of a pension-
- (a) which becomes a pension in payment on or after the commencement day,

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- (b) part of which is attributable to pensionable service before the commencement day, and
 - (c) part of which is attributable to pensionable service on or after that day,
- each of those parts of the pension is to be treated as if it were a separate pension.
- (5) Regulations may provide that any of the provisions of this section apply in relation to a pension as if so much of it as would not otherwise be attributable to pensionable service or to payments in respect of employment were attributable to pensionable service or, as the case may be, payments in respect of employment-
 - (a) before ~~the appointed day~~ **6 April 1997** or the commencement day,
 - (b) on or after that day, or
 - (c) partly before and partly on or after that day.
 - (6) This section does not apply to any pension or part of a pension which is attributable (directly or indirectly) to a pension credit or which, in the opinion of the trustees or managers, is derived from the payment by any member of the scheme of voluntary contributions.
 - (7) This section does not apply to any pension (or part of a pension) under a relevant occupational pension scheme which-
 - (a) is a cash balance benefit (see section 51ZB), and
 - (b) first comes into payment on or after the day on which section 21 of the Pensions Act 2011 comes into force.
 - ~~(8) An occupational pension scheme is a "relevant occupational pension scheme" if~~
 - ~~(a) it has not, on or after the appointed day, been contracted out by virtue of satisfying section 9(2) of the Pension Schemes Act 1993, or~~
 - ~~(b) it has, on or after the appointed day, been so contracted out, but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to the period on or after that day when it was so contracted out.~~

An occupational pension scheme is a "relevant occupational pension scheme" if
-

- (a) it has not, at any time on or after 6 April 1997, been a salary related contracted-out scheme (see section 7B of the Pension Schemes Act 1993), or**
- (b) it has, at any time on or after 6 April 1997, been a salary related contracted-out scheme but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to a period on or after that day when it was such a scheme.**

Schedule 13, Paragraph 81

Amends section 21 of the Pensions Act 2008 as follows:

21 — Quality requirement: UK defined benefits schemes

- (1) ~~Subject to subsection (3), a defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if the jobholder is in contracted-out employment.~~
- (2) ~~A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder who is not in contracted-out employment if it satisfies the test scheme standard in relation to that jobholder.~~
- (3) ~~The Secretary of State may by order provide that a scheme does not satisfy the quality requirement in relation to a jobholder who is in contracted-out employment unless it satisfies the test scheme standard in relation to that jobholder, with the substitution of a higher fraction, not exceeding 1/80th, for the fraction of 1/120th in section 23(4)(a).~~
- (4) ~~In relation to any scheme, a jobholder is in contracted-out employment for the purposes of this section and section 22 if a certificate has been issued in respect of the jobholder under section 7(1) of the Pension Schemes Act 1993 (c. 48) stating that the employment of the jobholder is contracted-out employment by reference to the scheme.~~

21 Quality requirement: UK defined benefits schemes

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

SCHEDULE 15 – Bereavement Support Payment: Amendments

Schedule 15, Paragraph 12

Amends section 39A of the Social Security Contributions and Administration Act 1992 as follows:

39A Widowed parent's allowance

~~(1) This section applies where—~~

~~(a) a person whose spouse or civil partner dies on or after the appointed day is under pensionable age at the time of the spouse's or civil partner's death, or~~

~~(b) a man whose wife died before the appointed day—~~

~~(i) has not remarried before that day, and~~

~~(ii) is under pensionable age on that day.~~

(1) This section applies where –

(a) a person's spouse or civil partner has died before the day on which section 29 of the Pensions Act 2013 comes into force (but see subsection (1A)),

(b) The person has not married or formed a civil partnership after the death but before that day, and

(c) The person is under pensionable age on that day.

(1A) This section does not apply in cases where a woman's husband had died before 9 April 2001.

(2) The surviving spouse or civil partner shall be entitled to a widowed parent's allowance at the rate determined in accordance with section 39C below if the deceased spouse or civil partner satisfied the contribution conditions for a widowed parent's allowance specified in Schedule 3, Part I, paragraph 5 and—

(a) the surviving spouse or civil partner is entitled to child benefit in respect of a child or qualifying young person falling within subsection (3) below;

(b) the surviving spouse is a woman who either—

(i) is pregnant by her late husband, or

(ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above, or

(c) the surviving civil partner is a woman who—

(i) was residing together with the deceased civil partner immediately before the time of the death, and

(ii) is pregnant as the result of being artificially inseminated before that time with the semen of some person, or as a result of the placing in her before that time of an embryo, of an egg in the process of fertilisation, or of sperm and eggs.

(3) A child or qualifying young person falls within this subsection if one of the conditions specified in sections 477(5) below is for the time being satisfied with respect to the child or qualifying young person and the child or qualifying young person is either—

(a) a son or daughter of the surviving spouse or civil partner and the deceased spouse or civil partner; or

(b) a child or qualifying young person in respect of whom the deceased spouse or civil partner was immediately before his or her death entitled to child benefit; or

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- (c) if the surviving spouse or civil partner and the deceased spouse or civil partner were residing together immediately before his or her death, a child or qualifying young person in respect of whom the surviving spouse or civil partner was then entitled to child benefit.
- (4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries [1or forms a civil partnership], but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—
 - (a) satisfied the requirements for subsection (2)(a) or (b) above; and
 - (b) is under pensionable age.
- (4A) The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it for any period throughout which she or he—
 - (a) satisfies the requirements of subsection (2)(a) or (b) above; and
 - (b) is under pensionable age.
- (5) A widowed parent's allowance shall not be payable—
 - (a) for any period falling before the day on which the surviving spouse's or civil partner's entitlement is to be regarded as commencing by virtue of section 5(1)(k) of the Administration Act;
 - (b) for any period during which the surviving spouse or civil partner and a person of the opposite sex to whom she or he is not married are living together as husband and wife, or
 - (c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners.

Schedule 15, Paragraph 21

Amends section 1 of the Social Security Administration Act 1992 as follows:

1 Entitlement to benefit dependent on claim

- (1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—
- (a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or
 - (b) he is treated by virtue of such regulations as making a claim for it.
- (1A) No person whose entitlement to any benefit depends on his making a claim shall be entitled to the benefit unless subsection (1B) below is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming benefit.
- (1B) This subsection is satisfied in relation to a person if—
- (a) the claim is accompanied by—
 - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
 - (ii) information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
 - (b) the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.
- (1C) Regulations may make provision disapplying subsection (1A) above in the case of—
- (a) prescribed benefits;
 - (b) prescribed descriptions of persons making claims; or
 - (c) prescribed descriptions of persons in respect of whom benefit is claimed, or in other prescribed circumstances.
- ~~(2) Where under subsection (1) above a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it—~~
- ~~(a) if the benefit is a bereavement payment, the person shall not be entitled to it in respect of a death occurring more than 12 months before the date on which the claim is made or treated as made; and~~
 - ~~(b) if the benefit is any other benefit except disablement benefit or reduced earnings allowance, the person shall not be entitled to it in respect of any period more than 12 months before that date, except as provided by section 3 below.~~
- (2) Where under subsection (1) a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it, the person is not entitled to it in respect of any period more than 12 months before the date on which the claim is made or treated as made**
- (2A) But subsection (2) does not apply –**
- (a) to disablement benefit or reduced earnings allowance, or**
 - (b) in a case where a claim for the benefit is made or treated as made by virtue of section 3(2).**
- (4) Where a person purports to make a claim on behalf of another—
- (za) for personal independence payment by virtue of section 82 of the Welfare Reform Act 2012; or
 - (zb) state pension or a lump sum under Part 1 of the Pensions Act 2013;

(zc) bereavement support payment under section 27 of the Pensions Act 2013;

- (a) for an attendance allowance by virtue of section 66(1) of the Contributions and Benefits Act;

that other shall be regarded for the purposes of this section as making the claim, notwithstanding that it is made without his knowledge or authority.

- (5) In this section and section 2 below “benefit” means—
- (za) universal credit;
 - (a) benefit as defined in section 122 of the Contributions and Benefits Act;
 - (aa) a jobseeker’s allowance; and
 - (ab) state pension credit;
 - (ac) an employment and support allowance,
 - (ad) personal independence payment.
 - (b) any income-related benefit.
- (4) This section (which corresponds to section 165A of the 1975 Act, as it had effect immediately before this Act came into force) applies to claims made on or after 1st October 1990 or treated by virtue of regulations under that section or this section as having been made on or after that date.
- (5) Schedule 1 to this Act shall have effect in relation to other claims.

SCHEDULE 18 – Prohibition orders: consequential amendments

Schedule 18, Paragraph 7

Amends section 66 of the Pensions Act 2004 as follows:

66 Register of prohibited trustees

- (1) The Regulator must keep in such manner as it thinks fit a register of all persons who are prohibited under section 3 of the Pensions Act 1995 (“the prohibition register”).
(“the prohibition register”) of –
 - (a) all persons who are prohibited under section 3 of the Pensions Act 1995, and**
 - (b) all persons appearing to the Regulator to be prohibited under Section 3A of that Act**
- (2) Arrangements made by the Regulator for the prohibition register must secure that the contents of the register are not disclosed or otherwise made available to members of the public except in accordance with section 67.
- (3) Nothing in subsection (2) requires the Regulator to exclude any matter from a report published under section 89 (reports of Regulator’s consideration of cases).