Draft Order laid before Parliament under section 143(4) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No. 000

PENSIONS

The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011

Made - - - - 000

Coming into force in accordance with article 1(2)

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by section 145(1) and (2) of the Pensions Act 2008(**1**).

A draft of this Order has been laid before Parliament in accordance with section 143(4) of that Act and has been approved by a resolution of each House of Parliament.

PART 1

General

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No. 2) Order 2011.

(2) This Order comes into force—

(a) for the purposes of this article and article 8, immediately before 6th April 2012, and

(b) for the purposes of the other provisions in Part 2, on 6th April 2012, and

(c) for the purposes of Part 3, on 6th April 2015.

(**1**) 2008 c.30.

PART 2

Amendments coming into force immediately before, or on, 6th April 2012

Amendments to the Bankruptcy (Scotland) Act 1985

2. In section 32(2A) of the Bankruptcy (Scotland) Act 1985(**2**) (vesting of estate, and dealings of debtor, after sequestration)—

(a) omit paragraph (b) and the word "and" immediately preceding it, and

(b) for "and "protected rights" having the same meanings" substitute "having the same meaning".

Amendments to the Insolvency Act 1986

3. For section 310(9) of the Insolvency Act 1986(**3**) (income payments orders) substitute—

"(9) In this section—

"guaranteed minimum pension" has the meaning given in section 8(2) of the Pension Schemes Act 1993;

"protected rights" has the meaning given in section 10 of the Pension Schemes Act 1993, as it had effect before the commencement of section 15(1) of the Pensions Act 2007.".

Amendments to the Judicial Pensions and Retirement Act 1993

4. In Schedule 2 to the Judicial Pensions and Retirement Act 1993(**4**) (transfer of accrued benefits), in paragraph 1(1) (interpretation), for the definition of "protected rights"(**5**), substitute—

""protected rights" has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993;".

Amendments to the Pension Schemes Act 1993

5.—(1) The Pension Schemes Act 1993(**6**) is amended as follows.

(2) In section 20(3) (transfer of accrued rights), for "sections 26 to 33" substitute "sections 31 and 33".

(3) In section 31(2) (investment and resources of schemes), for "The scheme" substitute "A scheme which was an appropriate scheme or a money purchase contracted-out scheme immediately before the abolition date".

(4) In section 33 (tax requirements to prevail over certification requirements)(**7**)—

(a) in the sidenote, for "certification requirements" substitute "requirements of section 31", and

(b) for "sections 26 to 32" substitute "section 31".

(**2**) 1985 c.66. Section 32(2A) was inserted by section 122 of, and paragraph 14 of Schedule 3 to, the Pensions Act 1995 (c. 26).
(**3**) 1986 c.45. Subsections (8) and (9) were inserted by section 122 of, and paragraph 15(b) of Schedule 3 to, the Pensions Act 1995 (c. 26).
(**4**) 1993 c.8.
(**5**) The definition of "protected rights" was amended by section 190 of, and paragraph 46(5) of Schedule 8 to, the Pension Schemes Act 1993 (c.48), and by section 184 of, and paragraph 43(5) of Schedule 7 to, the Pension Schemes (Northern Ireland) Act 1993 (c.49).
(**6**) 1993 c.48.
(**7**) Section 33 was amended by S.I. 2006/745.

(5) In section 37 (alteration of rules of contracted-out schemes)(**8**)—

(a) in subsection (1), after "rules of a" insert "salary related", and

(b) in subsection (3), after "section to a" insert "salary related".

(6) Omit section 38 (alteration of rules of appropriate schemes).

(7) In section 39 (general power to make regulations), omit ", and Part II of that Schedule as respects personal pension schemes".

(8) In section 42A (reduced rates of Class 1 contributions, and rebates)(**9**)—

(a) in subsection (3), at the beginning insert "Subject to subsection (5A),", and

(b) after subsection (5) insert—

"(5A) Where—

(a) a payment under subsection (3) is due in respect of an earner, and

(b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.".

(9) In section 43 (payment of minimum contributions to personal pension schemes), after subsection (6) insert—

"(6A) Where—

(a) a payment under subsection (1) is due in respect of an earner, and

(b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.".

(10) In section 50 (powers of Inland Revenue to approve arrangements for scheme ceasing to be certified)(**10**)—

(a) in subsection (1)(**11**)—

(i) omit "or a personal pension scheme",

(ii) for the words from "contracted-out" to "appropriate" substitute "salary related contracted-out", and

(iii) for paragraphs (a) and (b) substitute—

"(a) of earners' accrued rights to guaranteed minimum pensions under the scheme or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day; and

(b) of the liability for the payment of such pensions in respect of persons who have then become entitled to receive them.",

(b) in subsection (2), for the words from "contracted-out" to "appropriate" substitute "salary related contracted-out",

(c) in subsection (4)—

(**8**) Section 37 was substituted by section 151 of, and paragraph 39 of Schedule 5 to, the Pensions Act 1995 (c. 26).

(**9**) Section 42A was inserted by section 137 of the Pensions Act 1995 (c.26) and subsections (3) and (5) were amended by section 1 of, and paragraph 46 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**10**) Section 50 was amended by section 1 of, and paragraph 51 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

(**11**) Subsection (1) was amended by section 151 of, and paragraph 45 of Schedule 5 to, the Pensions Act 1995 (c.26).

(i) omit "(other than a money purchase scheme)",

(ii) for "26 to 33" substitute "31 and 33", and

(iii) for "43 to 45" substitute "43 and 45", and

(d) in subsection (6), for "which is not a money purchase contracted-out scheme", substitute "to which subsection (1) applies".

(11) In section 52 (supervision of schemes which have ceased to be certified)—

(a) in subsection (1)—

(i) after "supervision of" insert "salary related", and

(ii) omit the words from "and section 54 shall apply" to the end,

(b) in subsection (2), after "as respects any" insert "salary related", and

(c) omit subsections (2A)(b)(**12**) and (3).

(12) In section 53(3) (supervision: former contracted-out schemes)(**13**), omit "or (b)".

(13) Omit section 54 (supervision: former appropriate personal pension schemes).

(14) In section 96 (further provisions concerning exercise of option under section 95)—

(a) in subsection (2)(**14**)—

(i) in paragraph (a) omit "or his protected rights", and

(ii) in paragraph (b) omit "or protected", and

(b) in subsection (3)(**15**)—

(i) in paragraph (a), omit "or the member's protected rights; and", and

(ii) omit paragraph (b).

(15) In section 99(1) (trustees' duties after exercise of option), omit "or give effect to such protected rights".

(16) In section 156(1) (information for purposes of contracting-out)(**16**), for "or appropriate scheme", substitute "or a personal pension scheme which was an appropriate scheme before the abolition date".

(17) In section 159 (inalienability of guaranteed minimum pension and protected rights payments)—

(a) in subsection (1)(a), after "scheme or" insert "entitled",

(b) in subsection (4), for the words from "protected rights", in the first place they occur, to "protected rights", in the second place they occur, substitute "payments giving effect to protected rights under a personal pension scheme", and

(c) in subsection (4A)(b)(**17**), omit "such rights or to".

(18) In section 164 (Crown employment), for subsection (2) substitute—

(**12**) Subsection (2A) was inserted by section 151 of, and paragraph 47(a) of Schedule 5 to, the Pensions Act 1995 (c.26).

(**13**) Subsection (3) was substituted by section 151 of, and paragraph 48 of Schedule 5 to, the Pensions Act 1995, and subsequently amended by section 1 of, and paragraph 52 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

(**14**) Subsection (2) was amended by section 151 of, and paragraph 63 of Schedule 5 to, the Pensions Act 1995, by sections 18 and 88 of, and paragraph 3 of Schedule 2 to, and Part 1 of Schedule 13 to, the Welfare Reform and Pensions Act 1999 (c. 30).

(**15**) Subsection (3) was amended by section 151 of, and paragraph 63 of Schedule 5 to, the Pensions Act 1995 (c.26), and by S.I. 2005/2053.

(**16**) Section 156 was substituted by section 56 of, and paragraph 9 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c.19).

(**17**) Subsection (4A) was inserted by section 122 of, and paragraph 41 of Schedule 3 to, the Pensions Act 1995 (c.26).