



Post-legislative scrutiny of the Pensions Act (Northern Ireland) 2008

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1. INTRODUCTION

1.1 This report was completed in compliance with section 18 of the Pensions Act (Northern Ireland) 2008 which provides:

“(1) The Department must, before the end of 2014, prepare a report on the operation of the provisions of this Act.

“(2) The Department may prepare subsequent reports on the operation of the provisions of this Act.

“(3) The Department must lay a copy of any report prepared under this section before the Assembly.”

1.2 In December 2002, the Pensions Commission was established to review the UK’s system of pension provision and to advise whether the existing system of voluntary private pensions would deliver adequate results. The Pensions Act 2007 and the Pensions Act (Northern Ireland) 2008 were the first pieces of the statutory framework for the UK pensions landscape following the Commission’s reports in 2004 and 2005.

1.3 The Pensions Act (Northern Ireland) 2008 included measures which:

- strengthened and extended coverage of the basic State Pension;
- required the basic State Pension to be up-rated in line with earnings rather than prices;
- simplified the State Second Pension;
- increased the State Pension age in line with increases in longevity -
 - to 66 between 2024 and 2026,
 - 67 by 2036, and
 - 68 by 2046;
- provided for the initial functions of The Personal Accounts Delivery Authority in Northern Ireland. The Authority operated on a United Kingdom-wide basis to provide the necessary systems for the commencement of the commercial process for the infrastructure of a personal accounts scheme;
- introduced a scheme to convert Guaranteed Minimum Pensions into rights in an ordinary scheme pension;
- abolished contracting-out for defined contribution (money purchase) pension schemes;

- removed the Department's role in approving actuarial guidance for a number of pieces of existing legislation; and
- updated the provisions of the Pensions (Northern Ireland) Order 2005 by introducing an alternative route in the dispute resolution process.

1.4 The State Pension reforms were, in particular, designed to provide women and carers with significantly better opportunities to build entitlement to a pension and stemmed, in the main, from recommendations made by the Pensions Commission in its second report *A New Pension Settlement for the Twenty-First Century* published in 2005:

- the number of qualifying years required for a full basic State Pension was reduced from 44 for a man and 39 for a woman to 30;
- credits for caring, that apply for the purposes of both the basic State Pension and the State Second Pension, were modernised;
- the minimum requirement for at least 25% of the number of qualifying years for a full basic State Pension (the de minimis rule) was removed;
- a married person or civil partner became entitled to claim a pension based on the National Insurance record of a spouse or civil partner over pensionable age who had chosen not to claim their Category A State Pension.

1.5 Many of the measures introduced by the Pensions Act 2007 and the Pensions Act (Northern Ireland) 2008 have been superseded by changes made by subsequent legislation:

- the Pensions Act 2011 and the Pensions Act (Northern Ireland) 2012 revised the timetable for increasing State Pension age to 66, phasing it in between December 2018 and October 2020;
- the Personal Accounts Delivery Authority wound up in 2010;
- In Great Britain, under the Pensions Act 2014 –
 - the current State Pension, comprising basic State Pension and State Second Pension, will be replaced with a single component flat-rate pension from April 2016,
 - the new State Pension will require 35 qualifying years of National Insurance contributions or credits for entitlement to the full amount,
 - there will be a minimum qualifying period of 10 years. Those with less than 35 qualifying years but more than the minimum qualifying period will get a proportionally smaller amount,

- subject to transitional provisions, the State Second Pension will end,
- the new scheme is based on individual qualification, ending inheritance of, and derived rights to, a spouse's or civil partner's pension.

1.6 Measures corresponding to the Pensions Act 2014 are currently being considered by the Assembly. However, the key principles underpinning the Pensions Act (Northern Ireland) 2008, namely, helping people to make adequate saving for their retirement and making the State Pension fairer and more widely available, remain at the core of the proposed new pensions system.

2. SUMMARY: THE PENSIONS ACT (NORTHERN IRELAND) 2008

PART 1: STATE PENSION

Relaxation of contribution conditions – sections 1 and 3

2.1 Stemming largely from recommendations made by the Pensions Commission in its second report, *A New Pension Settlement for the Twenty-First Century*, published in 2005, Part 1 of the Pensions Act (Northern Ireland) 2008 included measures to strengthen and simplify State Pension provision. In particular, sections 1 and 3:

- relaxed the contribution conditions for people reaching State Pension age from April 2010 onwards;
- removed the requirement to have at least 25% of the number of qualifying years required for a full basic State Pension for entitlement to the minimum basic pension;
- introduced a National Insurance credit for the purposes of both basic and additional State Pension for parents and carers; and
- converted years of Home Responsibilities Protection into qualifying years.

2.2 Under the reformed contribution conditions, the proportion of claims for State Pension made by women where there was entitlement to a full Category A pension increased from a pre-implementation figure of 54% in 2009-10 to 78% in 2013-14. The figure for men increased from 83% in 2009-10 to 92% in 2013-14.

Removal of restriction on entitlement to category B State Pension - section 2

2.3 Section 2 removed the requirement for a person to claim their Category A pension before their spouse or civil partner could qualify for a Category B pension derived from their contributions. The change applied from April 2010 to both existing pensioners and people reaching State Pension age from that point onwards. Data are not available on the number of people who benefited from this easement. However, the number of Category B pension recipients was steadily declining prior to the introduction of the Pensions Act (Northern Ireland) 2008 and has continued to decline. The total number in payment fell from 21,614 in March 2007 to 17,964 in March 2010 to 14,020 in May 2014.

Abolition of adult dependency increases – section 4

2.4 From April 2010, section 4 abolished increases of State Pension for an adult dependant (normally an under-pension age wife) other than for existing entitlements which are transitionally protected until, at the latest, 2020. Prior to their abolition, the number of adult dependency increases in Northern

Ireland had been gradually increasing – between March 2006 and March 2010, the number in payment increased by 312. Following their abolition, the number in payment reduced from 1338 in March 2010 to 390 in March 2012.

- 2.5 By April 2020, when transitional protection is due to be removed, some adult dependency increases may still be in payment. Arrangements will be made to ensure that those affected will be given advance warning that the payment of the increase will cease and advice on the availability of other support.

Up-rating – sections 5 and 6

- 2.6 The Pensions Act 2007 provided for the basic State Pension, Industrial Injuries Death Benefit, and the State Pension Credit standard minimum guarantee to be up-rated annually at least in line with growth in average earnings. This applied from April 2008 in the case of the State Pension Credit standard minimum guarantee and from April 2011 in the case of the basic State Pension and Industrial Injuries Death Benefit. Section 5 of the Pensions Act (Northern Ireland) 2008 provided for corresponding increases to be introduced in Northern Ireland. Section 6 provides for the preservation of the rise with prices in the case of other benefits.
- 2.7 However, these measures have been supplemented by the non-statutory “triple lock” under which the basic State Pension and Industrial Injuries Death Benefit are up-rated by the highest of average earnings growth, price inflation or 2.5%. The triple lock has had an impact in every year since section 150A of the Social Security Administration Act 1992 became fully operative as either price inflation or 2.5% has been higher than the growth in average earnings.

Additional pension: simplification of accrual rates - sections 8 to 10

- 2.8 Sections 8, 9 and 10 introduced a range of measures designed to simplify the State Second pension and accelerate its transition to a flat-rate top up to the basic State Pension. From 2012, variable accruals on earnings up to the Low Earnings Threshold (currently £15,100 pa) were replaced by a flat rate accrual amount which is currently (2014-15) worth £92 per annum.

State Pension Age – section 11

- 2.9 Section 11 provided for State Pension age for men and women to increase from:
- 65 to 66 by 2026;
 - 66 to 67 by 2036; and
 - 67 to 68 by 2046.
- 2.10 The Pensions Act (Northern Ireland) 2012 subsequently revised the timetable for increasing State Pension age to 66, phasing it in between December 2018 and October 2020. In Great Britain, the Pensions Act 2014

accelerated the timetable for phasing-in the increase to age 67; introducing it between 2026 and 2028. Corresponding provision for Northern Ireland is currently being considered by the Assembly.

PART 2: OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Contracting-out – sections 12 and 13

- 2.12 Sections 12 and 13 dealt with issues relating to contracting-out of the additional State Pension. Section 12 introduced the ability for defined benefit (final salary) contracted-out occupational pension schemes to convert members' accrued rights to a Guaranteed Minimum Pension (GMP) into ordinary scheme rights. This option appears to have been little used, in part, because of concerns with European legal requirements in relation to equal pensions for men and women and how these interact with the GMP legislative requirements. In order to encourage its use, provision was made in the Pensions Act 2014 to require the Secretary of State to provide such guidance about GMP conversions as is considered appropriate. Corresponding provision for Northern Ireland is currently being considered by the Assembly.
- 2.13 Section 13 abolished contracting-out for defined contribution (money purchase) pension schemes. Regulations to support abolition came into operation in April 2012 and introduced transitional arrangements for National Insurance rebates. A review will be carried out in 2015, when the arrangements are due to end, to establish whether the arrangements are working satisfactorily for both schemes and HMRC. However, interim feedback from HMRC to the Department for Work and Pensions indicates that the arrangements are working well.

Dispute resolution arrangements - section 14

- 2.14 Trustees or managers of occupational pension schemes are required to have in place formal arrangements for the resolution of disagreements relating to their schemes. Section 14 introduced a single stage dispute resolution process whereby all decisions can be taken by trustees or managers. Schemes are, however, permitted to retain the previous two stage process if they wish to do so.

Actuarial guidance - section 15 and Schedule 5

- 2.15 Section 15 and its accompanying Schedule 5 removed the requirement for the Department to approve three Guidance Notes and one Technical Memorandum relating to actuarial guidance. The Financial Reporting Council now provides this function and continues to update and revise the Guidance Notes and Technical Memoranda.

PART 3: PERSONAL ACCOUNTS DELIVERY AUTHORITY

Initial function of the Personal Accounts Delivery Authority and management of the Authority - sections 16 and 17

- 2.16 The Personal Accounts Delivery Authority (the “Authority”) was established under section 20 of the Pensions Act 2007 to provide independent advice on the development of a new low cost work-place pension scheme. It was able to manage its own affairs and utilise the necessary professional expertise and knowledge to provide detailed operational advice on the design of the scheme to Government.
- 2.17 The initial function of the Authority in respect of Northern Ireland was set out in section 16 of the Pensions Act (Northern Ireland) 2008. This was limited to advising on the preparation for the implementation of, or for advising on the modification of, any relevant proposals about personal accounts.
- 2.18 Section 17 specified that the Authority must have regard to general guidance relating to the management of a Non Departmental Public Body and to the principles of good corporate management.
- 2.19 By July 2010, the Authority had completed its work and the Personal Accounts Delivery Authority Winding Up Order 2010 (SI 2010/911) came into force on 5 July 2010. The National Employment Savings Trust (NEST) Corporation launched the scheme in 2011 to prepare for the onset of automatic enrolment in October 2012. It is successfully supporting the introduction of automatic enrolment with in excess of 1.7 million members and over 10,000 participating employers. By the end of automatic enrolment implementation in 2018, NEST is expected to have between 2 and 4 million members and around 750,000 participating employers.

3. STATE PENSION

Background

- 3.1 Part 1 of the Pensions Act (Northern Ireland) 2008 enacts a range of State Pension reforms proposed in the White Paper *Security in retirement: towards a new pensions system* (Cm 6841) published in May 2006.
- 3.2 The proposals stemmed in the main from recommendations made by the Pensions Commission in its second report *A New Pension Settlement for the Twenty-First Century* published in 2005.
- 3.3 The State Pension reforms were primarily intended to:
- make the system simpler, more generous and to ensure that pensioners share in rising national prosperity; and
 - make the State Pension fairer and more widely available.

Relaxation of contribution conditions – sections 1 and 3

- 3.4 Before 6 April 2010, two contribution conditions had to be satisfied for entitlement to a State Pension:
- Class 1 National Insurance contributions paid on earnings of at least 52 times the weekly lower earnings limit for one tax year, or an equivalent number of Class 2 or Class 3 contributions; and
 - men and woman required 44 and 39 qualifying years respectively for entitlement to a full basic State Pension
- 3.5 It was also necessary to have at least 25% of the number of qualifying years required for a full basic State Pension for entitlement to the minimum basic pension (the de minimis rule). A man required a minimum of 11 qualifying years, a woman required 10.
- 3.6 With effect from 6 April 2010, section 1 of the Pensions Act (Northern Ireland) 2008:
- replaced the two contribution conditions with a single 30 qualifying years condition for both men and women; and
 - removed the de minimis rule.
- 3.7 Section 3 converted years of Home Responsibilities Protection into qualifying years. Under the original Home Responsibilities Protection scheme, introduced in 1978, tax years spent caring for a child or a severely disabled person reduced the number of qualifying years required for a full basic State Pension to a minimum of 20. This meant that, in addition to years of Home Responsibilities Protection, a woman normally needed at least 19 years of

paid and credited contributions to qualify for a full basic State Pension (including a minimum of one year of paid contributions).

- 3.8 The primary purpose of these provisions was to improve the basic State Pension entitlement of women born on or after 6 April 1950, in line with recommendations made by the Pensions Commission. For example, under the pre-2010 rules, a woman with 3 qualifying years and 19 years of Home Responsibilities Protection would have had a notional basic pension entitlement of 15% and would not have satisfied the de minimis condition; under the arrangements from 2010 onwards, she would have 22 qualifying years, giving her a basic pension entitlement of around three quarters of the full rate. The relaxation of contribution conditions was also expected to assist some men.
- 3.9 It was estimated that these changes would lead to around three quarters of women in the United Kingdom in the cohort born from 6th April 1950 to 5th April 1951 qualifying for a full basic State Pension. That proportion is expected to gradually increase to around 90% for cohorts born from 1955 onwards.
- 3.10 However, from April 2010, women's State Pension age ceased to be age 60. The Pensions (Northern Ireland) Order 1995 provided for State Pension age for men and women to equalise at 65 between April 2010 and April 2020. This measure was adopted in line with European Directive 79/7/EEC, which requires the progressive implementation of equality of treatment for men and women, and in light of an ageing population. The Pensions Act (Northern Ireland) 2012 accelerated the rate of equalisation so that women will be on the same footing as men by November 2018 (Appendix 1). As a consequence of the equalisation process, women born in the period from 6th April 1950 to 5th April 1951 reached State Pension age between 6 May 2010 and 6 March 2012 - aged between 60 and 61.
- 3.11 Table 1 compares the number of new claims for State Pension made by women and the proportions entitled to a full Category A pension in the years 2009/10 to 2013/14.

Table 1: New claims to State Pension - Female

| Year | Entitled to a State Pension of any category | Entitled to a full Cat A Pension | Proportion entitled to a full Cat A Pension |
|----------------|--|---|--|
| 2009-10 | 9740 | 5240 | 54% |
| 2010-11 | 5770 | 4110 | 71% |
| 2011-12 | 5110 | 3710 | 73% |
| 2012-13 | 5370 | 3990 | 74% |
| 2013-14 | 4820 | 3740 | 78% |

- 3.12 While the number of claims from women fell after 2009/10, the proportion of women qualifying for a full Category A pension increased significantly.

- 3.13 Table 2 compares the number of new claims made by men and the proportions entitled to a full Category A pension in the years 2009/10 to 2013/14.

Table 2: New claims to State Pension - Male

| Year | Entitled to a State Pension of any category | Entitled to a full Cat A Pension | Proportion entitled to a full Cat A Pension |
|---------|---|----------------------------------|---|
| 2009-10 | 8320 | 6870 | 83% |
| 2010-11 | 8360 | 7690 | 92% |
| 2011-12 | 9090 | 8370 | 92% |
| 2012-13 | 8990 | 8310 | 92% |
| 2013-14 | 8980 | 8260 | 92% |

- 3.14 In the period considered, there were no changes to State Pension age for men and the number of claims made in each year saw no major fluctuations. However, the proportion of men entitled to a full Cat A pension from 2010/11 onwards increased by 9% compared with 2009/10.
- 3.15 Under the de minimis rule, those whose contribution records resulted in an entitlement of less than 25% were not entitled to a basic State Pension, unless they had been insured or resided in another EEA Member State, Switzerland or a country with which the UK has a bilateral agreement enabling a pro rata UK entitlement of less than 25%.
- 3.16 The changes introduced by the Pensions Act (Northern Ireland) 2008 mean that people reaching State Pension age from April 2010 with fewer than 30 qualifying years are entitled to a pro-rated proportion of the full basic State Pension for each qualifying year built up. Table 3 shows the number of men and women who have recently claimed the State Pension and are entitled to less than 25% of the full rate.

Table 3: State Pension entitlement of less than 25%

| Year | Full weekly State Pension | 25% of full rate | Men | | Women | | Total |
|---------|---------------------------|------------------|--------|------------|--------|------------|-------|
| | | | Number | Proportion | Number | Proportion | |
| 2010-11 | £97.65 | £24.41 | 30 | 0.4% | 100 | 1.6% | 130 |
| 2011-12 | £102.15 | £25.54 | 50 | 0.5% | 70 | 1.3% | 110 |
| 2012-13 | £107.45 | £26.86 | 40 | 0.4% | 70 | 1.3% | 110 |

Note: Frequencies rounded to the nearest ten.

- 3.17 Under the pre-2010 rules, this group may not have had any State Pension entitlement.

Removal of restriction on entitlement to Category B State Pension - section 2

- 3.18 A Category B State Pension is based on the contribution record of the recipient's spouse or civil partner. Section 2 of the Act removed the requirement for the contributor to claim their Category A State Pension in order for their spouse or civil partner to become entitled to a Category B State Pension. If the contributor deferred claiming their pension or elected to stop claiming in order to gain deferred benefit, the Category B pension was unavailable.
- 3.19 This was a minor "tidying up" measure designed to remove a disincentive for contributors to defer drawing their Category A State Pension and the potential for malicious deprivation of a separated spouse's or civil partner's Category B pension entitlement.
- 3.20 Unlike other provisions in the Act, this measure applied to both current and future pensioners. No data are held on the number of existing pensioners who availed of the removal of this restriction and it is not practicable for the Department to identify them. However, data show that the number of Category B State Pension recipients was steadily declining prior to the introduction of the Pensions Act (Northern Ireland) 2008 and has continued to decline.

Table 4: Category B State Pension Recipients

| | Mar 07 | Mar 08 | Mar 09 | Mar 10 | Sept 11 | Mar 12 | Mar 13 | May 14 |
|--------------|--------|--------|--------|--------|---------|--------|--------|--------|
| Men | 4 | 4 | 5 | 4 | 10 | 10 | 10 | 10 |
| Women | 21,610 | 20,396 | 19,179 | 17,960 | 16,710 | 16,210 | 15,050 | 14,010 |
| Total | 21,614 | 20,400 | 19,184 | 17,964 | 16,720 | 16,220 | 15,060 | 14,020 |

- 3.21 The rationale for Category B pensions dates from the establishment of the State Pension system in the post-war period. They were designed to ensure that a pension would be paid to a dependent wife when her husband retired or she was widowed or divorced, on the assumption that she would have no State Pension in her own right.
- 3.22 The changes introduced by the Pensions Act (Northern Ireland) 2008 have resulted in the majority of women reaching State Pension age from April 2010 qualifying for a full basic State Pension in their own right. The proportion of women doing so is expected to continue to increase.
- 3.23 The new State Pension scheme proposed in the current Pensions Bill reflects the lives and contributions of today's working-age people, the majority of whom will build up a sufficient National Insurance record to become entitled to a full State Pension. Under the new scheme, if approved by the Assembly, the focus will be on individual entitlement, although it may be possible to use a spouse's or civil partner's National Insurance record in limited circumstances.

Contribution credits for parents and carers – section 3

- 3.24 Section 3 of the Pensions Act (Northern Ireland) 2008 inserted section 23A into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to provide, from 6 April 2010, for a National Insurance credit for the purposes of both basic and, under section 7 of the Act, additional State Pension to be awarded for a week during any part of which a person is:
- entitled to child benefit in respect of a child under the age of 12 (a reduction from the age of 16 in the upper age limit in the case of credits for basic pension purposes and an increase from the age of six in the case of credits for additional pension purposes);
 - a foster carer; or
 - engaged in caring for one or more persons for 20 hours or more a week - defined by the Social Security (Contributions Credits for Parents and Carers) Regulations (Northern Ireland) 2010.
- 3.25 Home Responsibilities Protection was available for full tax years only and could not be combined with credits or earnings. The parent's and carer's credit helps build entitlement to the basic State Pension and to State Second Pension until a youngest child reaches age 12. They are also taken into account for the purposes of certain Bereavement Benefits (Widowed Parent's Allowance and Bereavement Allowance).
- 3.26 It should be noted that the provisions for those engaged in caring are additional to the pre-existing arrangements for National Insurance credits for people drawing Carer's Allowance, which are awarded automatically. As the new crediting arrangements have only been in place for a relatively short period they, in particular in so far as they apply to periods of child care, have yet to make an appreciable impact on existing pension entitlements.
- 3.27 Credits for both basic and additional pension purposes where a person is receiving child benefit for a child under the age of 12 are awarded automatically. The availability of credits was subsequently extended to grandparents and other adult relatives looking after children under the age of 12, usually where the Child Benefit recipient works. Regulation 9F(4)(b) of the Social Security (Credits) Regulations (Northern Ireland) 1975 lists those adults who may qualify. In these circumstances, credits are transferred from the Child Benefit recipient to the carer, provided the former does not need the protection for their State Pension. An application countersigned by the Child Benefit recipient is required.
- 3.28 Data on the impact of these credits on individuals' pension entitlement are not available – in the case of basic State Pension it is not possible to determine this until working life has been completed. However, at April 2011, there were 168,466 families in Northern Ireland with at least one child aged under 12, providing potential entitlement to National Insurance credits for the purposes of both basic and additional State Pension.

3.29 In the case of a person providing care for 20 hours or more a week, an application must, where requested by the Department, include a declaration signed by someone involved in the health care or social care of the person cared for and considered by the Department as appropriate to make a declaration as to the level of care required. Departmental management information data show that at 11 December 2014 there had been 126 successful applications for credits from people caring for one or more severely disabled persons for at least 20 hours a week.

Abolition of adult dependency increases – section 4

3.30 Section 4 of the Act provided for the abolition of adult dependency increases of State Pension from April 2010. Transitional protection was provided for existing entitlements until 6 April 2020 or in the case of an increase paid in respect of a wife, until she reached pensionable age if earlier.

3.31 Eligibility for adult dependency increases was largely restricted to married men; a married woman may have been entitled to an increase of State Pension in limited circumstances:

- if she had been entitled to an increase of Incapacity Benefit for her husband before pensionable age, or
- in respect of a person having care of her children.

3.32 Of 1338 adult dependency increases in payment at March 2010, 1331 were paid to men. It was intended that eligibility would be extended to women from 2010 in order to comply with Directive 79/7/EEC, on equal treatment for men and women in matters of social security. However, abolition of adult dependency increases made this unnecessary.

3.33 Eligibility for an adult dependency increase was generally contingent on the dependant not drawing another social security benefit of equal or greater value than the increase and not having weekly earnings or an occupational or private pension of more than standard rate of contribution based Jobseeker’s Allowance for a person aged 25 or over. Prior to 2010, they were paid at the same rate as the Category B pension to which a pensioner’s wife became entitled on reaching State Pension age. Consequently, adult dependency increases have, in the main, been payable to male pensioners in respect of younger wives who had not yet reached pensionable age.

3.34 Table 5 shows the number of State Pension recipients who received an adult dependency increase in the years from 2006 to 2014.

Table 5: State Pension recipients with adult dependency increases

| March 2006 | March 2007 | March 2008 | March 2009 | March 2010 | Feb 2011 | March 2012 |
|-------------------|-------------------|-------------------|-------------------|-------------------|-----------------|-------------------|
| 1026 | 1125 | 1241 | 1294 | 1338 | 450 | 390 |

- 3.35 Prior to their abolition, the number of adult dependency increases of State Pension had been gradually increasing – between March 2006 and March 2010, the number in payment increased by 312. Following their abolition, the number in payment reduced from 1338 in March 2010 to 390 in March 2012
- 3.36 By April 2020, when transitional protection is due to be removed, some adult dependency increases may still be in payment. Arrangements will be made to ensure that those affected will be given advance warning that the payment of the increase will cease and advice on the availability of other support.

Up-rating – sections 5 and 6

- 3.37 The rate of the State Pension in Great Britain is increased annually by the Secretary of State. Under section 132 of the Social Security Administration (Northern Ireland) Act 1992, the Department for Social Development may make corresponding provision for Northern Ireland but has no power to increase the rate unilaterally.
- 3.38 Since 1980, the basic State Pension had been increased in line with price inflation. One of the key recommendations of the Pensions Commission was that indexation by reference to earnings growth should be restored to prevent further erosion of its value in relation to earnings.
- 3.39 Section 5 of the Pensions Act 2007 inserted section 150A of the Social Security Administration Act 1992 providing for specified benefits to be up-rated annually by at least the level of growth in average earnings rather than, by price inflation. The benefits specified are:
- basic Category A and B State Pension
 - non-contributory Category C and D State Pension
 - Industrial Injuries Death Benefit
 - the standard minimum guarantee in State Pension Credit.
- 3.40 Section 5 of the Pensions Act (Northern Ireland) 2008 inserted section 132A in the Social Security Administration (Northern Ireland) Act 1992 to enable the Department for Social Development to provide for corresponding increases in Northern Ireland.
- 3.41 However, these measures have been supplemented by the non-statutory “triple lock”, under which the basic State Pension and Industrial Injuries Death Benefit are up-rated by the highest of average earnings growth, price inflation or 2.5%. The triple lock has had an impact in every year since section 150A of the Social Security Administration Act 1992 became fully operative as either price inflation or 2.5% has been higher than the growth in average earnings.

Table 6: Percentage increase in State Pension

| Year | Rate of basic State Pension | % increase over Previous year |
|---------|-----------------------------|-------------------------------|
| 2011-12 | £102.15 | 4.6 |
| 2012-13 | £107.45 | 5.2 |
| 2013-14 | £110.15 | 2.5 |
| 2014-15 | £113.10 | 2.7 |
| 2015-16 | £115.95 | 2.5 |

Additional pension: simplification of accrual rates - sections 8 to 10

- 3.42 In addition to the basic State Pension, many people accrue entitlement to an additional State Pension, which might comprise Graduated Retirement Benefit, State Earnings-Related Pension and State Second Pension. In line with recommendations made by the Pensions Commission regarding the future of the additional pension, sections 8 to 10 of the Act made a number of changes to the basis on which additional pension accrues that were intended to make it simpler and to accelerate its transition to a flat rate top-up to the basic State Pension.
- 3.43 The State Earnings-Related Pension Scheme (SERPS) was introduced in 1978 under provisions contained in the Social Security Pensions (Northern Ireland) Order 1975. SERPS provided the first earnings-related component of the State Pension and was originally intended to provide a pension equivalent to 25% of a person's earnings between the lower and upper earnings limits for payment of National Insurance contributions averaged over the best 20 years of his or her working life.
- 3.44 The scheme was subject to a number of modifications, principally under the Social Security (Northern Ireland) Order 1986, to:
- reduce the accrual rate from 25% in steps of 0.5% for people reaching State Pension age between 1999 and 2008;
 - level it off at 20% for people reaching State Pension age from 2009 onwards; and
 - average earnings over a person's full working life rather than the best 20 years.
- 3.45 The State Second Pension (S2P) scheme, introduced in 2002 under measures contained in the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, provided an enhancement to SERPS for those with low to moderate earnings and extended additional pension accruals to people caring for a young child or a severely disabled person and people with long-term incapacities.

3.46 In addition to the new crediting arrangements, the key features of the S2P scheme were:

- that low earners and those being 'credited in' were deemed to have earned a minimum amount, set at just over half median average earnings, thus boosting the value of their accruals. This is known as the low earnings threshold (LET). The LET is revalued annually and is currently £15,100 per annum;
- a first band of earnings, between the lower earnings limit (LEL) and the LET and deemed at the LET if below, which attracted an accrual rate of double the SERPS rate;
- a second band of earnings which attracted an accrual rate of half the SERPS rate. This was for earnings over the LET but below a limit – set at an amount equivalent to three times the LET minus two times the annual equivalent of the LEL – in current terms this would be around £33,750 per annum; and
- a third band for earnings above the limit of the second band which attracted accruals at the SERPS rate.

3.47 This three band structure, whereby the higher accrual rate in the first band of earnings was counterbalanced by the lower accrual rate in the second, was designed to taper off the boost provided by the S2P scheme with higher earners in the third band effectively having the same overall accrual rate as under SERPS.

3.48 The intention was that the earnings-related elements of the S2P scheme would be withdrawn once Stakeholder Pensions had become established, leaving earnings-related pensions to be provided solely through occupational and personal pension arrangements. Under this model, accruals in future years under the S2P scheme would have provided a flat-rate addition to the basic State Pension. The plan to flat-rate S2P was not implemented.

3.49 In its second report, the Pensions Commission identified that, although the decision had been taken not to flat-rate S2P, the complex three-band structure would, over time, lead to a flat rate. This was based on the assumptions that, in the long-term, earnings growth would exceed price inflation and that the limits for National Insurance liability would continue to rise broadly in line with prices. The effect of this would be, firstly, the erosion of the third band and then, by around the middle of the century, the erosion of the second band of accruals because the LET would be increased in line with growth in average earnings.

3.50 The Commission suggested that this process should be accelerated in order to remove earnings-related accruals from around 2030. To achieve this, the then upper end of the third band, the Upper Earnings Limit in National Insurance, would be replaced by an Upper Accrual Point which would be fixed

in value. Section 10 of the Act provided for this with an introduction date determined by the introduction of the flat rate accrual amount (described below). However, because of changes to National Insurance announced in the 2007 Budget, the National Insurance Contributions Act 2008 introduced the Upper Accrual Point from 2009. The Upper Accrual Point is set at £40,040. The annual equivalent of the upper earnings limit is, by way of comparison, currently (2014/15) £41,860.

- 3.51 The Pensions Act (Northern Ireland) 2008 also included two further measures to simplify S2P. Firstly, section 8 provided for the removal of the third band from April 2010 in the expectation that, by then, it would be subsumed by growth in the upper limit of the second band. However, as earnings growth in the intervening period was significantly lower than originally projected, this was not the case.
- 3.52 Secondly, section 9 provided for a flat-rate accrual amount – re-valued in line with average earnings growth prior to the point a person reaches State Pension age. This replaced the existing variable formula based accruals on earnings up to the LET which had meant the values varied from cohort to cohort. The flat-rate accrual amount was intended to provide clarity as to the minimum amount a person could expect to accrue in a year under the S2P scheme.
- 3.53 This measure was implemented from 2012 by the Social Security Pensions (Flat Rate Introduction Year) Order (Northern Ireland) 2012 (S.R. 2012 No 40). The annual flat rate accrual amount specified at paragraph 13(2) of Schedule 4B to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 was re-valued from £72.80 to £88.40 under the provisions of section 130AA of the Social Security Administration (Northern Ireland) Act 1992 by the Social Security Pensions (Flat Rate Accrual Amount) Order (Northern Ireland) 2012 (S.R. 2012 No. 89).
- 3.54 Under the most recent such Order, the Social Security Pensions (Flat Rate Accrual Amount) Order (Northern Ireland) 2014 (2014 No.51), the current (2014/15) flat rate accrual amount is £92.00 per annum.

State Pension Age – section 11

- 3.55 Until 2010, State Pension age had remained unchanged at 65 for men and 60 for women since 1940. From April 2010, measures introduced by the Pensions (Northern Ireland) Order 1995 to increase women's State Pension age to 65 over a ten year period began to take effect. The move to equalise the State Pension age for men and women was in compliance with Directive 79/7/EEC on equal treatment in social security.
- 3.56 The Directive, which came into force in 1984, contains an important derogation in respect of the State Pension age, permitting pre-existing unequal treatment to continue, subject to review, in order to allow Member States time to adjust their systems.

- 3.57 The timetable introduced by the Pensions (Northern Ireland) Order 1995 provided 15 years' notice of the change. The decision to equalise at 65, rather than lowering men's State Pension age, was based on a growing recognition that demographic change was reducing the old-age support ratio and the fact that a number of European States were equalising their State Pension ages at 65 or older.
- 3.58 However, actual and projected growth in the UK pensioner population has continued faster than anticipated. These factors led the Pensions Commission to recommend that raising the State Pension age was essential to ensuring the long-term sustainability of the UK State Pension system if the link to earnings growth was to be reintroduced; the alternative would be to see the value of the State Pension continue to decline.
- 3.59 Increasing the State Pension age was intended to keep the inevitable increases in public expenditure within GDP limits which would be fair between generations and sustainable over the long term.
- 3.60 The Pensions Act (Northern Ireland) 2008 provided for State Pension age for men and women to increase:
- to 66 between 2024 and 2026;
 - 67 by 2036; and
 - 68 by 2046.
- 3.61 However, since the Act came into operation, once again framed by increasing life-expectancy rates and the need to keep spending on pensioners fair and sustainable, the Pensions Act (Northern Ireland) 2012:
- revised the timetable to phase-in the increase to age 66 between December 2018 and October 2020; and
 - accelerated the rate of equalisation set out in the Pensions (Northern Ireland) Order 1995 from 2016, so that women will be on the same footing as men by November 2018.
- 3.62 In Great Britain, the Pensions Act 2014 accelerated the timetable for phasing-in the increase to age 67; introducing it between 2026 and 2028 rather than between 2034 and 2036. Corresponding provision for Northern Ireland is currently being considered by the Assembly.

4. OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Contracting-out: Conversion of Guaranteed Minimum Pensions – section 12

- 4.1 Section 12 of the Pensions Act (Northern Ireland) 2008 inserted sections 20A - H into the Pension Schemes (Northern Ireland) Act 1993. This provided the ability for defined benefit (final salary) contracted-out occupational pension schemes to convert members' accrued rights to a Guaranteed Minimum Pension (GMP) into ordinary scheme rights by using actuarial equivalence (i.e. the value of the post-conversion benefits must be at least equivalent to the pre-conversion benefits offered to the member).
- 4.2 The intention was to allow schemes to adopt a unified approach to their benefit structure and so streamline, and potentially make savings to, their administrative processes. This approach could also deliver clarity for members in terms of understanding the benefits available to them from the scheme. Use of this provision is not mandatory.
- 4.3 Discussions between the Department for Work and Pensions and industry experts suggest that this provision is little used, in part, because of concerns with European legal requirements in relation to equal pensions for men and women and how these interact with the GMP legislative requirements.
- 4.4 In order to encourage its use, provision was made at paragraph 20 of Schedule 13 to the Pensions Act 2014, amending the Pensions Schemes Act 1993, to require the Secretary of State to provide such guidance about GMP conversions as is considered appropriate. Corresponding provision for Northern Ireland is currently being considered by the Assembly.

Abolition of contracting-out for defined contribution pension schemes – section 13

- 4.5 Section 13 abolished contracting-out for occupational and personal pension schemes that contract out on a defined contribution (money purchase) basis. Subsequent to that provision, section 85 of the Pensions (No. 2) Act (Northern Ireland) 2008 provided for the abolition of "protected rights" (the collective term for rights derived from the National Insurance Rebate, tax relief and investment return). Many of the consequential amendments in Schedule 4 to the Pensions Act (Northern Ireland) 2008 were repealed to reflect the change. Because of the link between the two, section 13 and section 85 were brought into operation on 6th April 2012 by:
- the Pensions (2008 Act) (Commencement No. 3) Order (Northern Ireland) 2012 (SR 2012 No. 115 (C. 11)); and
 - the Pensions (2008 No. 2 Act) (Commencement No. 7) Order (Northern Ireland) 2012 (SR 2012 No. 119 (C. 12)).

- 4.6 Regulations made under the Pensions Act (Northern Ireland) 2008 to support abolition came into force on 6th April 2012 and introduced transitional arrangements for National Insurance rebates. Prior to abolition, National Insurance rebate payments were made by HMRC to contracted-out defined contribution schemes at the end of each tax year through an automated payment system. The regulations provide for “late” receipt and recovery of National Insurance rebates in the three year period following abolition. They ensure that the automated process of rebate payments and recoveries which existed between HMRC and formerly contracted-out schemes prior to abolition is maintained in most cases for a transitional period. The transitional period eases administrative burdens on schemes and HMRC.
- 4.7 Where automated payments to schemes are not possible because, for example, the member has left the scheme, payments will be made direct to individuals. Once the transitional period ends on 5th April 2015, all rebate adjustments after this date will be paid direct to individuals and be handled clerically by HMRC.
- 4.8 A review of the transitional arrangements to be carried out in 2015 will establish whether they are working satisfactorily for, both, schemes and HMRC. However, interim feedback from HMRC to the Department for Work and Pensions indicates that the arrangements are working well.

Dispute resolution arrangements - section 14

- 4.9 Trustees or managers of occupational pension schemes are required to have in place formal arrangements for the resolution of disagreements relating to their schemes. Prior to the change in section 14, the dispute resolution procedure required a two-stage process, with someone nominated by trustees giving a decision at the first stage, and then the matter being referred to the trustees if the applicant is still not satisfied.
- 4.10 Section 14 made it possible to replace the two-stage internal dispute resolution procedure with a single-stage arrangement whereby all decisions would be taken by trustees or managers. This change was not compulsory, and schemes have been able to retain the two-stage arrangements if they wished. This change gave effect to the proposal announced in the 2002 Green Paper *Simplicity, security and choice: Working and saving for retirement*.
- 4.11 The internal dispute process remains an important part of the overall procedures members of occupational pension schemes can use to put right problems they may face in their scheme.

Actuarial guidance - section 15 and Schedule 5

- 4.12 In order for actuaries to calculate pension schemes’ liabilities consistently, all are required to use an agreed set of guidelines. These guidelines were contained in documents referred to either as ‘Guidance Notes’ or as a ‘Technical Memorandum’. There were seven Guidance Notes and one

Technical Memorandum referred to in pensions legislation. The Department was required by primary legislation to approve three of these Guidance Notes and the Technical Memorandum.

- 4.13 Historically, the documents were produced by the Actuarial Profession. The Morris Review of the Actuarial Profession recommended that the Financial Reporting Council should establish a new regime to set actuarial standards and to oversee the regulation of the actuarial profession. The Financial Reporting Council is the UK's independent regulator for corporate reporting and governance. This recommendation was accepted and the Financial Reporting Council set up the Board for Actuarial Standards to promote confidence in corporate reporting and governance by setting high quality actuarial standards.
- 4.14 On 6 April 2007, the Board for Actuarial Standards adopted and took responsibility for the existing versions of the pensions Guidance Notes and the Technical Memorandum. In order to maintain the independence of the Financial Reporting Council, and through it the Board for Actuarial Standards, as the UK's independent regulator for corporate reporting and governance, section 15 and its accompanying Schedule removed the requirement for the Department to approve the three Guidance Notes and the Technical Memorandum from primary legislation.
- 4.15 Since the Board for Actuarial Standards was set up in 2006, it has removed the majority of adopted Guidance Notes and, where necessary, the detail has been incorporated into legislation.

5. PERSONAL ACCOUNTS DELIVERY AUTHORITY

Initial function of the Personal Accounts Delivery Authority and management of the Authority - sections 16 and 17

- 5.1 In 2005, the Pensions Commission recommended a radical set of reforms to both the UK state and private pensions systems. The specific recommendations to increase private pension saving were:
- harnessing the power of inertia through the automatic enrolment of workers by employers into pension schemes to boost pension saving;
 - requiring employers to make a minimum contribution to their workers' pension funds to improve the incentive to save; and
 - a new pension scheme, designed to provide a simple and low-cost way of saving for low to moderate income earners.
- 5.2 The introduction of automatic enrolment for all eligible workers, with a minimum employer contribution, would mean that, for the first time, millions of workers across the UK would have a right to a workplace pension with contributions from their employer and government in the form of tax relief. These reforms to private pension savings were introduced by the Pensions Act 2008 and the Pensions (No 2) Act (Northern Ireland) 2008.
- 5.3 In December 2006, the Westminster Government published the White Paper *Personal accounts: a new way to save* (Cm 6975). This recognised that designing and delivering a new pension scheme should not be a task for government. It proposed the establishment of the Personal Accounts Delivery Authority, a non-departmental public body to advise on, and later implement, proposals.
- 5.4 The White Paper also made clear that the introduction of a new trust-based occupational scheme, the Personal Accounts Scheme (now the National Employment Savings Trust (NEST)), needed to extend the benefits of an occupational pension scheme to millions of people who were without access to good quality workplace pension provision. In developing the scheme, it was essential to maintain a focus on this target group. The delivery of this scheme was a substantial programme of work at the heart of the private pensions reform programme. For the scheme to be a success it was critical to get the design of the system and the delivery of its infrastructure right.
- 5.5 The Personal Accounts Delivery Authority, the "Authority", was established under section 20 of the Pension Act 2007. The Authority was initially set up to provide independent advice to Government on the development of a new low cost work-place pension scheme. It was able to manage its own affairs and utilise the necessary professional expertise and knowledge to provide detailed operational advice on the design of the scheme to Government.

- 5.6 The initial function of the Authority in respect of Northern Ireland was set out in section 16 of the Pensions Act (Northern Ireland) 2008. This was limited to advising on the preparation for the implementation of, or for advising on the modification of, any relevant proposals about personal accounts and included:
- providing advice and recommendations to the Department or the Secretary of State by helping to think through the operational and commercial implications of policy options; and
 - providing for the implementation of a national low-cost portable pension savings scheme by preparing financial, technical and commercial strategies. The Authority was prevented from borrowing money from any person in connection with this function.
- 5.7 Section 17 specified that the Authority must have regard to general guidance relating to the management of a Non Department Public Body and to the principles of good corporate management.
- 5.8 By July 2010, the Authority had completed its work; the scheme design, including the scheme order and rules (which is equivalent to a trust deed) was finalised and the procurement processes for services to support the operation of the scheme were well advanced. Some implementation activities, including, for example, those dependent on the adoption of a Statement of Investment Principles, could only be signed off by the trustee of the scheme. The remaining implementation was, therefore, completed by NEST Corporation – the sole corporate trustee of the National Employment Savings Trust. The Personal Accounts Delivery Authority Winding Up Order 2010 (SI 2010/911) came into force on 5 July 2010.
- 5.9 NEST Corporation launched the scheme in 2011 to prepare for the onset of automatic enrolment in October 2012. It is successfully supporting the introduction of automatic enrolment with in excess of 1.7 million members and over 10,000 participating employers. By the end of automatic enrolment implementation in 2018, NEST is expected to have between 2 and 4 million members and around 750,000 participating employers.

6. CONCLUSION

- 6.1 The main thrust of the Pensions Act (Northern Ireland) 2008 was to improve the coverage, generosity and sustainability of the State Pension. In particular, the changes made were designed to provide women and carers with significantly better opportunities to build entitlement.
- 6.2 The process of equalising State Pension age for men and women set out in the Pensions (Northern Ireland) Order 1995 began to take effect from April 2010 and has reduced the number of women reaching State Pension age in the following years. However, data show that the proportion of women qualifying for a full basic State Pension increased from 54% in 2009/10 to 78% in 2013/14. This is in line with initial estimates.
- 6.3 The Act also dealt with issues relating to contracting-out of the additional State Pension. It introduced the ability for defined benefit (salary-related) contracted-out occupational pension schemes to convert members' accrued rights to a Guaranteed Minimum Pension into ordinary scheme rights. While this option appears to have been little used, the Pensions Act 2014 made provision in Great Britain for guidance on conversion to be given. Corresponding Northern Ireland measures are being considered by the Assembly.
- 6.4 Contracting-out for defined contribution (money purchase) pension schemes was abolished. Transitional arrangements for National Insurance rebates were introduced. A review to be carried out in 2015, when the arrangements are due to end, will determine whether they are working satisfactorily for, both, schemes and HMRC. However, interim feedback from HMRC to the Department for Work and Pensions indicates that they are working well.
- 6.5 Some measures introduced by the Act have been superseded by provisions in the Pensions Act (Northern Ireland) 2012 and others may be superseded by the current Pensions Bill. The Pensions Act (Northern Ireland) 2012 brought forward the timetable for increasing State Pension age to 66 and accelerated the rate of equalisation of State Pension age for men and women.
- 6.6 The current Pensions Bill proposes an entirely new single-tier State Pension scheme based on individual entitlement. However, the key principles underpinning the Pensions Act (Northern Ireland) 2008; namely helping people to make adequate saving for their retirement and making the State Pension fairer and more widely available, remain the at the core of the proposed new pensions system.

Equalisation of State Pension ages

| Date of birth (women) | Date State Pension age reached |
|-----------------------------------|---------------------------------------|
| 6 April 1950 – 5 May 1950 | 6 May 2010 |
| 6 May 1950 – 5 June 1950 | 6 July 2010 |
| 6 June 1950 – 5 July 1950 | 6 September 2010 |
| 6 July 1950 – 5 August 1950 | 6 November 2010 |
| 6 August 1950 – 5 September 1950 | 6 January 2011 |
| 6 September 1950 – 5 October 1950 | 6 March 2011 |
| 6 October 1950 – 5 November 1950 | 6 May 2011 |
| 6 November 1950 – 5 December 1950 | 6 July 2011 |
| 6 December 1950 – 5 January 1951 | 6 September 2011 |
| 6 January 1951 – 5 February 1951 | 6 November 2011 |
| 6 February 1951 – 5 March 1951 | 6 January 2012 |
| 6 March 1951 – 5 April 1951 | 6 March 2012 |
| 6 April 1951 – 5 May 1951 | 6 May 2012 |
| 6 May 1951 – 5 June 1951 | 6 July 2012 |
| 6 June 1951 – 5 July 1951 | 6 September 2012 |
| 6 July 1951 – 5 August 1951 | 6 November 2012 |
| 6 August 1951 – 5 September 1951 | 6 January 2013 |
| 6 September 1951 – 5 October 1951 | 6 March 2013 |
| 6 October 1951 – 5 November 1951 | 6 May 2013 |
| 6 November 1951 – 5 December 1951 | 6 July 2013 |
| 6 December 1951 – 5 January 1952 | 6 September 2013 |
| 6 January 1952 – 5 February 1952 | 6 November 2013 |
| 6 February 1952 – 5 March 1952 | 6 January 2014 |
| 6 March 1952 – 5 April 1952 | 6 March 2014 |
| 6 April 1952 – 5 May 1952 | 6 May 2014 |
| 6 May 1952 – 5 June 1952 | 6 July 2014 |
| 6 June 1952 – 5 July 1952 | 6 September 2014 |
| 6 July 1952 – 5 August 1952 | 6 November 2014 |
| 6 August 1952 – 5 September 1952 | 6 January 2015 |
| 6 September 1952 – 5 October 1952 | 6 March 2015 |
| 6 October 1952 – 5 November 1952 | 6 May 2015 |
| 6 November 1952 – 5 December 1952 | 6 July 2015 |
| 6 December 1952 – 5 January 1953 | 6 September 2015 |
| 6 January 1953 – 5 February 1953 | 6 November 2015 |
| 6 February 1953 – 5 March 1953 | 6 January 2016 |
| 6 March 1953 – 5 April 1953 | 6 March 2016 |
| 6 April 1953 – 5 May 1953 | 6 July 2016 |
| 6 May 1953 – 5 June 1953 | 6 November 2016 |
| 6 June 1953 – 5 July 1953 | 6 March 2017 |
| 6 July 1953 – 5 August 1953 | 6 July 2017 |
| 6 August 1953 – 5 September 1953 | 6 November 2017 |
| 6 September 1953 – 5 October 1953 | 6 March 2018 |
| 6 October 1953 – 5 November 1953 | 6 July 2018 |
| 6 November 1953 – 5 December 1953 | 6 November 2018 |

Glossary of Terms

Additional pension

An earnings-related pension paid under the State Earnings Related Pension Scheme (SERPS) or the State Second Pension (S2P) scheme. Normally paid with basic pension but can be paid in isolation.

Adult Dependency Increase

Increase of State Pension paid to a man in respect of his wife where she is under pension age and economically inactive.

Basic State Pension

A flat rate contributory pension with reduced amounts paid where the contribution condition is not fully satisfied and a flat rate non-contributory pension payable subject to satisfaction of a residence test where a person either does not qualify for a contributory pension or any entitlement to a contributory pension is lower than the rate of non-contributory pension.

Category A pension

Basic or additional pension normally based on a person's own National Insurance contributions.

Category B pension

Basic or additional pension based on a spouse's, civil partner's, or late spouse's or civil partner's National Insurance contributions.

Category C pension

A pension paid to the widows of men who reached State Pension age before the introduction of the post-war contributory pension scheme in 1948. Now largely obsolete.

Category D pension

A non-contributory pension paid to people over age 80.

National Insurance credits

Credits of earnings awarded in certain circumstances; for instance, when someone has caring responsibilities or is registered unemployed. They cover periods when a person is not paying National Insurance contributions.

National Insurance record

An individual's history of National Insurance contributions and credits.

State Pension age

The minimum age at which a person can qualify for a State Pension.