

## 1988 No. 2238

### PENSIONS

#### The Personal Pension Schemes (Compensation) Regulations 1988

<i>Made</i> - - - -	<i>20th December 1988</i>
<i>Laid before Parliament</i>	<i>5th January 1989</i>
<i>Coming into force</i>	<i>26th January 1989</i>

The Secretary of State for Social Security, in exercise of the powers conferred by section 166(2) of the Social Security Act 1975(a) and section 84(1) of, and paragraph 10 of Schedule 1 to, the Social Security Act 1986(b) and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals referred to them, hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal Pension Schemes (Compensation) Regulations 1988 and shall come into force on 26th January 1989.

(2) In these Regulations—

- “the Act” means the **1**Pension Schemes Act 1993**4**;
- “the Appropriate Schemes Regulations” means the Personal Pension Schemes (Appropriate Schemes) Regulations 1988(c);
- “the Banking Act” means the Banking Act 1987(d);
- “the Building Societies Act” means the Building Societies Act 1986(e);
- “the Financial Services Act” means the Financial Services Act 1986(f);
- “the Financial Services Compensation Rules” means the Financial Services (Compensation of Investors) Rules 1988(g) made by the Securities and Investments Board under section 54 of the Financial Services Act;
- “the Friendly Societies Protection Scheme” means the arrangement by that name made under section 141 of the Financial Services Act and approved for the time being by the Chief Registrar of Friendly Societies;
- “liable scheme” has the meaning assigned by regulation 2;
- “the Policyholders Protection Act” means the Policyholders Protection Act 1975(h); and
- “scheme” means personal pension scheme.

<sup>1</sup>Words in defn. of “the Act” substituted by para. 22(2) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

- 
- (a) 1975 c. 14. Section 166(2) applies to powers to make regulations under the Social Security Act 1986 by virtue of section 83(1) of that Act.
  - (b) 1986 c. 50; *see* the definitions of “prescribed” and “regulations” in section 84(1).
  - (c) S.I. 1988/137, amended by S.I. 1988/830.
  - (d) 1987 c. 22.
  - (e) 1986 c. 53.
  - (f) 1986 c. 60.
  - (g) By virtue of paragraph 5 of Schedule 9 to the Financial Services Act 1986 these Rules are not contained in a statutory instrument but copies are available from the Securities and Investments Board.
  - (h) 1975 c. 75.

**Application of Regulations**

2. These Regulations apply to any scheme except a scheme which takes the form—

- (a) mentioned in regulation 2(1)(a) of the Appropriate Schemes Regulations (insurance policies and annuity contracts), being a scheme established by an authorised insurance company within the meaning of section 3(2) of the Policyholders Protection Act.
- (b) mentioned in the said regulation 2(1)(a) being a scheme established by a friendly society to which apply either the provisions of the Friendly Societies Protection Scheme or the provisions of the Financial Services Compensation Rules;
- (c) mentioned in regulation 2(1)(b) of those Regulations (unit trust schemes), being a scheme of which the trustee and operator are both subject to the provisions of the Financial Services Compensation Rules and
- (d) mentioned in regulation 2(1)(c) of those Regulations (interest-bearing accounts etc. with banks and building societies), being a scheme which is established by a body to which the provisions of section 58 of the Banking Act apply, or established by a building society in relation to which, in the event of its insolvency, the provisions of section 27 of the Building Societies Act would apply,

and in these Regulations a scheme to which these Regulations apply is referred to as a “liable scheme”.

**Requirements to be complied with by liable schemes in the event of insolvency**

<sup>1</sup>Words in reg. 3(1) and (2) substituted by para. 22(3) and (4) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

3.—(1) For the purposes of <sup>1</sup>paragraph (b) of section 30(1) of the Act<sup>1</sup> the prescribed circumstances are—

- (a) that if the scheme is a liable scheme which takes the form mentioned in regulation 2(1)(a) of the Appropriate Schemes Regulations and if (in the case of a scheme established by an insurance company) the provisions of section 10 of the Policyholders Protection Act applied, or (in the case of a scheme established by a friendly society) the provisions of either the Friendly Societies Protection Scheme or the Financial Services Compensation Rules applied, those provisions would become operative;
- (b) that if the scheme is a liable scheme which takes the form mentioned in regulation 2(1)(b) of the Appropriate Schemes Regulations and if the provisions of the Financial Services Compensation Rules applied, those provisions would become operative; and
- (c) that if the scheme is a liable scheme which takes the form mentioned in regulation 2(1)(c) of the Appropriate Schemes Regulations, and if the provisions of either section 58 of the Banking Act (if the scheme is established by a body mentioned in regulation 3(3)(c) or (d) of those Regulations) or section 27 of the Building Societies Act (if the Scheme is established by a body mentioned in regulation 3(3)(a) or (b) of those Regulations) applied, those provisions would become operative.

(2) Subject to regulation 4, a liable scheme can be an appropriate scheme <sup>1</sup>for the purposes of the Act<sup>1</sup> only if it secures that in the event that, by reason of the commission by any person of a criminal offence or in the circumstances specified in paragraph (1) (or both), the scheme is unable to meet from its own resources the whole or any part of its liability for protected rights under the scheme, that liability will, at least to the extent specified in paragraph (3), be met from some other source.

(3) The extent to which the liability specified in paragraph (2) must be met from some other source is—

- (a) if the scheme takes the form mentioned in regulation 2(1)(a) of the

Appropriate Schemes Regulations and is established by an insurance company, the extent to which it would be met under section 10 of the Policyholders Protection Act if that Act applied or, if it is established by a friendly society, the extent to which it would be met under the Friendly Societies Scheme if that scheme applied;

- (b) if the scheme takes the form mentioned in regulation 2(1)(b) of the Appropriate Schemes Regulations, the extent to which it would be met under the Financial Services Compensation Rules if those rules applied; and
- (c) if the scheme takes the form mentioned in regulation 2(1)(c) of the Appropriate Schemes Regulations, the extent to which it would be met under section 58 of the Banking Act (if the scheme is established by a body mentioned in regulation 3(3)(c) or (d) of those Regulations) or section 27 of the Building Societies Act (if the scheme is established by a body mentioned in regulation 3(3)(a) or (b) of those Regulations) if those sections applied.

**Transitional provision**

**4.** If on the day when these Regulations come into force an appropriate scheme certificate is in force in relation to a liable scheme, the provisions of these Regulations shall not apply to that scheme until the expiration of the period of 3 months beginning with that day.

Signed by authority of the Secretary of State for Social Security.

*Peter Lloyd*  
Parliamentary Under-Secretary of State,  
Department of Social Security

20th December 1988

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide that for a personal pension scheme which is not within the investor protection provisions of one or other of the Policyholders Protection Act 1975, the Building Societies Act 1986, the Banking Act 1987, the Financial Services (Compensation of Investors) Rules 1988 or the Friendly Societies Protection Scheme to be an appropriate scheme under Part I of the Social Security Act 1986, it must secure that any part of its liability for protected rights which it is unable to meet from its own resources are, at least to the extent that they would be met if one or other of those provisions did apply, met from some other source.

The report of the Occupational Pensions Board on the draft of these Regulations which had been referred to them together with a statement by the Secretary of State for Social Services showing that the Regulations give effect to the Board's recommendations is contained in Command Paper No. 553 published by Her Majesty's Stationery Office.