

2001 No. 1218

PENSIONS

The Occupational Pension Schemes (Pensions Compensation Provisions) Amendment Regulations 2001

Made - - - - - 27th March 2001
Laid before Parliament 2nd April 2001
Coming into force - - 23rd April 2001

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 56(3), 81(2A)(a) and (7), 83(2) and (3)(a), 84(2), 86, 119, 124(1), 125(2) and 174(2) and (3) of the Pensions Act 1995(a) and of all other powers enabling him in that behalf, having consulted such persons as he considered appropriate(b), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Pensions Compensation Provisions) Amendment Regulations 2001 and shall come into force on 23rd April 2001.

Amendment of the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997

2.—(1) The Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997(c) shall have effect with the following amendments.

(2) After regulation 3 (relevant offences), there shall be inserted the following regulation:—

“Protected liabilities—prescribed class of members

3A. For the purposes of section 81(2A)(a) (protected liabilities to include liabilities in respect of members of prescribed class) the prescribed class of members shall comprise those members who fall within the “switch-over period”, as defined in regulation 7(10) of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996(d).”.

(3) In regulation 5 (amount of compensation)—

- (a) in paragraph (3), the words “90 per cent. of” shall be omitted;
- (b) in paragraph (5) for the words “90 per cent. of liabilities” there shall be substituted the words “the aggregate of the protected liabilities”; and
- (c) in paragraph (6) for sub-paragraph (a) there shall be substituted the following sub-paragraph:—
“(a) the prescribed rate of interest shall be the base rate plus 2 per cent.,”.

(a) 1995 c. 26; section 81(2A) was inserted, and section 83(3)(a) was amended, by section 17(2) to (4) of the Welfare Reform and Pensions Act 1999 (c. 30). Section 124(1) of the 1995 Act is cited for the meaning given to “prescribed” and “regulations”.

(b) See section 120(1) of the Pensions Act 1995.

(c) S.I. 1997/665.

(d) S.I. 1996/1536; regulation 7(10) was substituted by S.I. 2000/2691.

(4) In paragraph (5) of regulation 6 (payments made in anticipation), for sub-paragraph (d) there shall be substituted the following sub-paragraph:—

“(d) so as not to exceed the aggregate of the protected liabilities.”.

(5) In regulation 10 (modifications for money purchase schemes)—

(a) in paragraph (1)(a)—

(i) in head (i) the words “90 per cent. of” shall be omitted, and

(ii) for head (ii) there shall be substituted the following head:—

“(ii) for paragraph (b) of section 83(3) there were substituted—

“(b) in the case of a money purchase scheme, must not exceed 90 per cent. of the difference between—

(i) the value of the assets of the scheme immediately before the reduction falling within section 81(1)(c), and

(ii) their value immediately after that reduction,

as reported by the auditor, where that difference is adjusted so as to take account of subsequent alterations in their value (if any) which occur prior to the settlement date, including any alterations which would have occurred if that reduction had not taken place.”;”;

(b) in paragraph (1)(b)—

(i) for the words from “these Regulations” to “substituted—” there shall be substituted the words “these Regulations shall have effect as if—

(i) for paragraph (5) of regulation 5 there were substituted—”,

(ii) for the words “90 per cent. of their pre-loss value” there shall be substituted the words “the aggregate of the protected liabilities”,

(iii) for the formula “ $T \times 90\% - V$ ” there shall be substituted the formula “ $(T - V) \times 90\%$ ”, and

(iv) after the words “purposes of T and V.””, there shall be inserted the following head:—

“(ii) for paragraph (5)(d) of regulation 6 there were substituted—

“(d) so as not to exceed 90 per cent. of the shortfall at the application date.”;”;

(c) in paragraph (2)(a)—

(i) in head (i) the words “90 per cent. of” shall be omitted, and

(ii) for head (iv) there shall be substituted the following head:—

“(iv) for paragraph (b) of section 83(3) there were substituted—

“(b) in the case of an ear-marked scheme, must not exceed 90 per cent. of the difference between—

(i) the value of the assets of the scheme immediately before the reduction falling within section 81(1)(c), and

(ii) their value immediately after that reduction,

as certified by the relevant insurer, where that difference is adjusted so as to take account of subsequent alterations in their value (if any) which occur prior to the settlement date, including any alterations which would have occurred if that reduction had not taken place.”;”;

(d) in paragraph (2)(b)—

(i) for the words “90 per cent of their pre-loss value” there shall be substituted the words “the aggregate of protected liabilities”, and

(ii) for the formula “ $(T + S) \times 90\% - V$ ” there shall substituted the formula “ $(T + S - V) \times 90\%$ ”.

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

27th March 2001

Jeff Rooker
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997 (“the 1997 Regulations”) which make provision in relation to the payment, by the Pensions Compensation Board under sections 81 to 85 (“the compensation provisions”) of the Pensions Act 1995 (“the 1995 Act”), of compensation to occupational pension schemes whose assets have been reduced in value as a result of certain acts or omissions. These amendments are made in consequence of changes made to the compensation provisions by section 17 of the Welfare Reform and Pensions Act 1999 in connection with the criteria which must be met when an occupational pension scheme seeks compensation from the Board, and with the maximum amount of compensation payable.

In particular, the 1997 Regulations are amended to specify the class of members in respect of whom liabilities of the scheme are included among the liabilities by reference to which “the protection level” is calculated under section 81(2A) of the 1995 Act (regulation 2(2)), and to remove the 90 per cent. limit by reference to which the maximum amount of compensation, and the amount of interest and of payments made in anticipation, are calculated (regulation 2(3) and (4)). Equivalent amendments are also made in regulation 10 of the 1997 Regulations, which modifies sections 81 and 83 of the 1995 Act, and other provisions of those Regulations, in their application to money purchase schemes and “ear-marked schemes” (where money purchase benefits may be provided) (regulation 2(5)).

These Regulations do not impose any charge on business.

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