

**2007 No. 3014**

**PENSIONS**

**The Occupational Pension Schemes (EEA States) Regulations  
2007**

<i>Made</i>	- - - -	<i>22nd October 2007</i>
<i>Laid before Parliament</i>		<i>26th October 2007</i>
<i>Coming into force</i>	- -	<i>26th November 2007</i>

The Secretary of State for Work and Pensions, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b), in relation to personal and occupational pensions, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (EEA States) Regulations 2007 and shall come into force on 26th November 2007.

**Amendment of pensions legislation**

2. In the provisions of pensions legislation specified in the Schedule —
- (a) for “member State” or “Member State” substitute “EEA state”; and
  - (b) for “member States” substitute “EEA states”.

**Amendment of the Pensions Act 1995**

3. In section 49(8A)(c) of the Pensions Act 1995(c) (other responsibilities of trustees, employers, etc.) for “a member state” substitute “an EEA state”.

**Amendment of the Pensions Act 2004**

4. In the Pensions Act 2004(d)—
- (a) in section 253(1) and (6) (non-European scheme to be trust with UK-resident trustee) for “the member States” substitute “the EEA states”;
  - (b) in section 254(1) (representative of non-European scheme to be treated as trustee) for “the member States” substitute “the EEA states”;

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(a) See the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328).

(b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(c) 1995 c.26. Section 49(8A) was inserted by S.I. 2001/3649.

(d) 2004 c.35.

- (c) in section 287(6) (occupational pension scheme receiving contributions from European employer)—
  - (i) for ““host member State”” substitute ““host EEA state””;
  - (ii) for “a member State” substitute “an EEA state”;
- (d) in section 289(1)(c) and (2)(a)(i) (approval in relation to particular European employer) for “host member State” substitute “host EEA state”;
- (e) in section 290(1)(a) and (b) and (2)(b) (notification of legal requirements of host member State outside United Kingdom) for “host member State” substitute “host EEA state”;
- (f) in section 291(1) (duty of trustees or managers to act consistently with law of host member State) for “host member State” substitute “host EEA state”;
- (g) in section 293 (functions of Regulator in relation to institutions administered in other member States)—
  - (i) in paragraph (1) for “host member State” substitute “host EEA state”;
  - (ii) in paragraph (2) for “another member State” substitute “another EEA state”;
  - (iii) in paragraph (4)(b) for “the member State” substitute “the EEA state”;
  - (iv) in paragraph (8) for “a member State” substitute “an EEA state”;
- (h) in section 294(1) (stopping disposal of assets of institutions administered in other member States)—
  - (i) for “a member State” substitute “an EEA state”;
  - (ii) for “that member State” substitute “that EEA state”;
- (i) in section 295 (interpretation of Part 7)—
  - (i) for “a member State” in both places substitute “an EEA state”;
  - (ii) for ““host member State”” substitute ““host EEA state””.

### **Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005**

**5.—(1)** The Occupational Pension Schemes (Cross-border Activities) Regulations 2005<sup>(a)</sup> shall be amended in accordance with the provisions of this regulation.

(2) In regulation 2(1) (interpretation)—

- (a) for ““host member State”” substitute ““host EEA state””;
- (b) in the definition of “qualifying person”—
  - (i) for “a member State” in both places substitute “an EEA state”;
  - (ii) for “that member State” substitute “that EEA state”;
- (c) in the definition of “qualifying self-employed person”—
  - (i) for “a member State” substitute “an EEA state”;
  - (ii) for “that member State” in both places substitute “that EEA state”;
- (d) in the definition of “seconded worker” for “a member State” substitute “an EEA state”.

(3) In regulation 3 (meaning of “European employer” and “host member State” in Part 7 of the Pensions Act 2004)—

- (a) in paragraph (1)—
  - (i) for “host member State” substitute “host EEA state”;
  - (ii) for “that member State” in both places substitute “that EEA state”;
- (b) in paragraph (5)—

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<sup>(a)</sup> S.I. 2005/3381; the relevant amending instrument is S.I. 2007/814.

- (i) for ““host member State”” substitute ““host EEA state””;
  - (ii) for “the member State or States” in both places substitute “the EEA state or states”.
- (4) In regulation 12(2) (conditions for approval in relation to particular European employer) for “host member State” substitute “host EEA state”.
- (5) In regulation 13 (revocation of approval in relation to particular European employer)—
- (a) in paragraphs (1), (4), (5) and (6) for “host member State” in each place where those words appear substitute “host EEA state”;
  - (b) in paragraph (7) for “host member States” in both places substitute “host EEA states”.
- (6) In paragraph 6 of Schedule 1 (additional information to be contained in applications for authorisation or approval)—
- (a) in sub-paragraphs (2)(c) and (7)(b), (c), (f), (h) and (i) for “host member State” substitute “host EEA state”;
  - (b) in sub-paragraph (7)(a) for “member States” substitute “EEA states”.

Signed by authority of the Secretary of State for Work and Pensions.

*Mike O'Brien*  
Minister of State,  
Department for Work and Pensions

22nd October 2007

## SCHEDULE

Regulation 2

1. The following provisions of the Pension Schemes Act 1993(a)—
  - (a) section 1(1)(b) (definition of “occupational pension scheme”);
  - (b) section 19(4)(a)(i)(c) (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts);
  - (c) section 32A(2)(a)(i)(d) (discharge of protected rights on winding up: insurance policies).
2. Paragraph 6(2)(a) of Schedule 5 to the Welfare Reform and Pensions Act 1999(e) (qualifying arrangements).
3. Regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(f) (definition of “overseas scheme”).
4. Regulation 1(2) of the Protected Rights (Transfer Payment) Regulations 1996(g) (definition of “overseas scheme”).
5. Regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996(h) (definition of “overseas scheme”).
6. Regulation 2(2)(b) of the Pension Schemes (Categories) Regulations 2005(i) (prescription of certain pension schemes as occupational pension schemes).

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(a) 1993 c.48.  
 (b) The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004.  
 (c) Section 19(4) was amended by S.I. 2001/3649.  
 (d) Section 32A was inserted by section 146 of the Pensions Act 1995 and amended by S.I. 2001/3649.  
 (e) 1999 c.30. Paragraph 6 was amended by S.I. 2001/3649.  
 (f) S.I. 1996/1172; the relevant amending instrument is S.I. 2007/814.  
 (g) S.I. 1996/1461; the relevant amending instrument is S.I. 2007/814.  
 (h) S.I. 1996/1462; the relevant amending instrument is S.I. 2007/814.  
 (i) S.I. 2005/2401, to which there are amendments not relevant to these Regulations.

7. The following provisions of the Occupational Pension Schemes (Scheme Funding) Regulations 2005(a)—

- (a) regulation 17(1)(d)(i) (exemptions – general);
- (b) paragraph 4(2)(b) and (d)(i) and (3)(a) of Schedule 2 (modifications of the Pensions Act 2004 and Regulations: schemes covering United Kingdom and foreign employment).

8. Regulation 15(1)(d)(i) of the Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005(b) (exemptions).

9. Regulation 4(1)(e) of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006(c) (excluded employers: occupational pension schemes).

### **EXPLANATORY NOTE**

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

These Regulations amend various provisions in pensions legislation to take account of the coming into force on 12th April 2007 of the decision of the EEA Joint Committee No. 88/2006 of 7th July 2006 to incorporate European Union Directive 2003/41/EC on the Activities and Supervision of Institutions for Occupational Retirement Provision (OJ No. L 235, 23.9.03, p.10) into Annex IX (Financial Services) to the EEA Agreement.

Regulations 2 to 5 and the Schedule specify the provisions that are amended by these Regulations.

An Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or voluntary bodies. Copies of a transposition note concerning the implementation of the Directive by these Regulations may be obtained from Private Pensions, Department for Work and Pensions, 3rd floor, Adelphi, 1–11 John Adam Street, London WC2N 6HT.

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- (a) S.I. 2005/3377, to which there are amendments not relevant to these Regulations.
  - (b) S.I. 2005/3380, to which there are amendments not relevant to these Regulations.
  - (c) S.I. 2006/349, to which there are amendments not relevant to these Regulations.

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