

**2007 No. 814**

**PENSIONS**

**FAMILY LAW**

**The Occupational and Personal Pension Schemes  
(Miscellaneous Amendments) Regulations 2007**

<i>Made</i> - - - -	<i>12th March 2007</i>
<i>Laid before Parliament</i>	<i>15th March 2007</i>
<i>Coming into force</i> - -	<i>6th April 2007</i>

**ARRANGEMENT OF REGULATIONS**

1. Citation and commencement
2. Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987
3. Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991
4. Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996
5. Amendment of the Protected Rights (Transfer Payment) Regulations 1996
6. Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996
7. Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996
8. Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996
9. Amendment of the Divorce etc. (Notification and Treatment of Pensions) (Scotland) Regulations 2000
10. Amendment of the Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000
11. Amendment of the Stakeholder Pension Schemes Regulations 2000
12. Amendment of the Occupational Pension Schemes (Winding up etc.) Regulations 2005
13. Amendment of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005
14. Amendment of the Pension Schemes (Categories) Regulations 2005
15. Amendment of the Occupational Pension Schemes (Scheme Funding) Regulations 2005
16. Amendment of the Occupational Pension Schemes (Investment) Regulations 2005
17. Amendment of the Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005
18. Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005
19. Amendment of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006

20. Amendment of the Occupational Pension Schemes (Trustees' Knowledge and Understanding) Regulations 2006
21. Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 2006
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The Secretary of State, being a Minister designated(a), for the purposes of section 2(2) of the European Communities Act 1972(b), in relation to matters relating to personal and occupational pensions makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act, section 12A(8) of the Family Law (Scotland) Act 1985(c), sections 1(1), 9(2B)(c), 12C(1)(a), 16(3), 20(1), 28(2)(b) and (4), 71(6), 113(1) and (2), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(d), sections 35(7), 40(1), 66A(3), 73(2)(b), 73B(8), 124(1) and 174(2) and (3) of the Pensions Act 1995(e), sections 1(5)(c), 8(1), 23(1)(a)(ii), 26(1), 28(1)(f)(ii) and (3)(a), 48(1)(f)(ii) and (3)(a) and 83(4), (5) and (6) of the Welfare Reform and Pensions Act 1999(f) and sections 182(1)(a), 221(1)(b) and (2), 224(1)(b), 227(4), 241(8)(c), 242(10), 249(2)(a), 259(1), 287(6), 288(1), 289(1), 292(1), 315(2) and (5) and 318(1) of the Pensions Act 2004(g).

In accordance with section 185(1) of the Pension Schemes Act 1993(h), section 120(1) of the Pensions Act 1995, section 83(11) of the Welfare Reform and Pensions Act 1999 and section 317(1) of the Pensions Act 2004 the Secretary of State has consulted such persons as he considers appropriate.

### Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2007 and shall come into force on 6th April 2007.

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- (a) See S.I. 2004/3328.
- (b) 1972 c.68.
- (c) 1985 c.37; section 12A was inserted by section 167(3) of the Pensions Act 1995 (c.26) and was amended by section 84 of, paragraphs 5 and 9 of Schedule 12 to, and Part 2 of Schedule 13 to, the Welfare Reform and Pensions Act 1999 (c.30); section 261(2) of, and Part 2 of Schedule 28 to, the Civil Partnership Act 2004 (c.33); sections 17(1) and (4) and 45(1) of, and paragraph 5(1) and (2) of Schedule 2 to, the Family Law (Scotland) Act 2006 (asp 2); and S.I. 2006/384.
- (d) 1993 c.48; section 1 was amended by section 239 of the Pensions Act 2004 (c.35) and S.I. 1999/1820. Section 9(2B) was substituted by section 136(3) of the Pensions Act 1995 and amended by section 1(1) of, and paragraph 35 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 12C was inserted by section 136(5) of the Pensions Act 1995. Section 16 was amended by section 151 of, and paragraph 28 of Schedule 5 to, the Pensions Act 1995 and section 18 of, and paragraph 4 of Schedule 2 to, the Welfare Reform and Pensions Act 1999. Section 20 was amended by section 56 of, and paragraph 2 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c.19) and S.I. 2005/2050. Section 28(2)(b) and (4) was amended by section 56 of, and paragraphs 2 and 3 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000; and sections 284 and 320 of, and Part 1 of Schedule 13 to, the Pensions Act 2004. Section 113 was amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8); section 52 of the Child Support, Pensions and Social Security Act 2000; section 319(1) of, and paragraphs 9 and 17 of Schedule 12 to, the Pensions Act 2004 and S.I. 2005/2053. Section 181(1) is cited because of the meaning there given to "prescribed" and "regulations".
- (e) 1995 c.26; section 35 was substituted by section 244 of the Pensions Act 2004. Section 40 was amended by section 319(1) of, and paragraphs 34 and 51 of Schedule 12 to, the Pensions Act 2004 and by S.I. 2004/355. Section 73 was substituted by section 270(1) of the Pensions Act 2004. Section 73B was inserted by section 270(1) of the Pensions Act 2004. Section 124(1) is cited because of the meaning there given to "prescribed" and "regulations".
- (f) 1999 c.30; section 1(5) was amended by section 285 of the Pensions Act 2004. Section 23 was amended by section 261(1) and (4) of, and paragraph 157(1) and (2) of Schedule 27 to, the Civil Partnership Act 2004. Section 28(1)(f) was amended by section 261(1) of, and paragraph 159(1) and (4) of Schedule 27 and Schedule 30 to, the Civil Partnership Act 2004. Section 48(1)(f) was amended by section 261(1) of, and paragraph 161(1) and (4) of Schedule 27 to, the Civil Partnership Act 2004. Sections 8(1) and 26(1) are cited because of the meaning there given to "prescribed".
- (g) 2004 c.35; the Act is modified in its application to partially guaranteed schemes by S.I. 2005/277, in its application to multi-employer schemes by S.I. 2005/441 (as amended by S.I. 2005/993 and 2113) and 2006/566, and in its application to hybrid schemes by S.I. 2005/449. The Act is further modified by S.I. 2005/3377 and 3380. Section 318(1) is cited because of the meaning there given to "prescribed" and "regulations".
- (h) Section 185(1) was amended by sections 122, 151, and 177 of, paragraph 46 of Schedule 3, paragraph 80 of Schedule 5 and Part 1 of Schedule 7 to, the Pensions Act 1995.

### **Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987**

**2.—**(1) Amend the Personal Pension Schemes (Disclosure of Information) Regulations 1987(**a**) as follows.

(2) In Schedule 2 (information to be made available to individuals)—

- (a) omit sub-paragraphs (b) and (c) of paragraph 1; and
- (b) in paragraph 5 for “regulation 10(12) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1987” substitute “regulation 12(12) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(**b**) (death of member before effect given to his protected rights)”.

(3) In Schedule 3 (other information), in paragraph 4 for “regulation 2(1)(b) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1988” substitute “regulation 2(2)(b) of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997(**c**)”.

### **Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

**3.—**(1) Amend the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(**d**) as follows.

(2) For regulation 5 (short service benefit in lump sum form) substitute—

“**5.** For the purposes of section 71(6) of the Act (basic principle as to short service benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of short service benefit in the form of a lump sum before normal pension age are that the payment of a lump sum to the member is permitted in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004(**e**) (lump sum rule).”.

(3) In regulation 8 (early retirement or deferred retirement) for paragraph (2) substitute—

“(2) The member’s benefit must not be payable before normal pension age except in the circumstances where the member has either—

- (a) met the ill-health condition specified in paragraph 1 of Schedule 28 to the Finance Act 2004 (registered pension schemes – defined benefits and money purchase arrangements – ill health condition) immediately before he became entitled to the benefit under the scheme; or
- (b) attained normal minimum pension age as defined in section 279 of that Act (other definitions).”.

### **Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996**

**4.—**(1) Amend the Occupational Pension Schemes (Contracting-out) Regulations 1996(**f**) as follows.

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(a) S.I. 1987/1110; the relevant amending instruments are S.I. 1988/474, 1992/1531, 1993/519, 1994/1062, 2002/1555 and 2006/744.  
(b) S.I. 1996/1537; the relevant amending instrument is S.I. 2005/2050.  
(c) S.I. 1997/470; the relevant amending instrument is S.I. 2001/3649.  
(d) S.I. 1991/167; the relevant amending instruments are S.I. 1994/1062 and 1996/2131.  
(e) 2004 c.12.  
(f) S.I. 1996/1172; relevant amending instruments are S.I. 1999/3198 and 2002/681.

- (2) In regulation 1(2) (interpretation) for the definition of “overseas scheme” substitute—
- ““overseas scheme” means an occupational pension scheme which has its main administration outside the member States but does not include a scheme which is contracted-out in the Isle of Man by virtue of satisfying section 9(2) or (3) of the 1993 Act as it has effect in the Isle of Man(a).”.
- (3) In regulation 62(2) (fixed rate revaluation of guaranteed minimum pensions for early leavers)—
- (a) in sub-paragraph (e) for “6th April 2002, 4.5 per cent.” substitute “6th April 2002 but before 6th April 2007, 4.5 per cent.”; and
- (b) after sub-paragraph (e) add—
- “(f) where that period of service terminates on or after 6th April 2007, 4 per cent. compound.”.

### **Amendment of the Protected Rights (Transfer Payment) Regulations 1996**

- 5.—(1) Amend the Protected Rights (Transfer Payment) Regulations 1996(b) as follows.
- (2) In regulation 1(2) (interpretation) for the definition of “overseas scheme” substitute—
- ““overseas scheme” means—
- (a) an occupational pension scheme which has its main administration outside the member States; or
- (b) a European pensions institution as defined in section 293(8) of the Pensions Act 2004 (functions of Regulator in relation to institutions administered in other member States),
- but does not include one which is contracted-out within the meaning of section 7(3) of the 1993 Act nor one in respect of which section 53 of the 1993 Act applies by virtue of section 52(1) of that Act.”.

### **Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996**

- 6.—(1) Amend the Contracting-out (Transfer and Transfer Payment) Regulations 1996(c) as follows.
- (2) In regulation 1(2) (interpretation) for the definition of “overseas scheme” substitute—
- ““overseas scheme” means—
- (a) an occupational pension scheme which has its main administration outside the member States; or
- (b) a European pensions institution as defined in section 293(8) of the Pensions Act 2004 (functions of Regulator in relation to institutions administered in other member States),
- but does not include a salary-related contracted-out scheme nor one in respect of which section 53 of the 1993 Act applies by virtue of section 52(1) of that Act.”.

### **Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

- 7.—(1) Amend the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(a) as follows.

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(a) See Article 3 of, and the Schedule to, the Pension Schemes Act 1993 (Application) Order 1995, Statutory Document No. 531/95, which applies (with modifications) section 9 of the Pension Schemes Act 1993 to the Isle of Man; and see Article 3(1)(b) of, and Schedule 1 to, the Pensions Act 1995 (Application) Order 1997, Statutory Document No. 501/97, which applies to the Isle of Man the amendments to that in section 136 of the Pensions Act 1995.

(b) S.I. 1996/1461; the relevant amending instrument is S.I. 1997/786.

(c) S.I. 1996/1462; the relevant amending instrument is S.I. 1997/786.

(2) In regulation 8 (giving effect to protected rights by the provision of a lump sum) omit paragraph (2).

#### **Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996**

**8.**—(1) Amend the Occupational Pension Schemes (Disclosure of Information) Regulations 1996**(b)** as follows.

(2) In regulation 5 (information to be made available to individuals)—

(a) in paragraph (12ZA) for “(except excluded persons), within a reasonable period after the date” substitute “(except excluded persons), on, or before, or within a reasonable period after, the date”; and

(b) after paragraph (15) add—

“(16) The requirement in paragraph (12ZA) does not apply in relation to a member or beneficiary whose only entitlement to benefits under the scheme is, or will be, to money purchase benefits.”.

#### **Amendment of the Divorce etc. (Notification and Treatment of Pensions) (Scotland) Regulations 2000**

**9.**—(1) Amend the Divorce etc. (Notification and Treatment of Pensions) (Scotland) Regulations 2000**(c)** as follows.

(2) In regulation 1 (citation, commencement and interpretation) in paragraph (3) for the definition of “the other party” substitute—

““the other person” means the other person to a marriage or civil partnership.”.

(3) In regulations 2(2) to (4), and 3 to 6 for “party”, wherever it occurs, substitute “person”.

#### **Amendment of the Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000**

**10.**—(1) Amend the Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000**(d)** as follows.

(2) In regulation 3 (circumstances in which an agreement is to be entered into, in order to be considered a “qualifying agreement”) after “divorce” insert “or dissolution of a civil partnership”.

(3) In regulation 4 (prescribed form of provision) for paragraph (c) substitute—

“(c) a statement by the transferor and the transferee that they have received confirmation from the Secretary of State that shareable state scheme rights are held in the name of the transferor and that on the—

(i) grant of decree of divorce;

(ii) declarator of nullity of marriage;

(iii) dissolution of civil partnership; or

(iv) declarator of nullity of civil partnership,

a pension sharing agreement will be implemented.”.

(4) In regulation 5 (circumstances in which an agreement is to be entered into, in order to be considered a “qualifying agreement”) after “divorce” insert “or dissolution of a civil partnership”.

#### **Amendment of the Stakeholder Pension Schemes Regulations 2000**

**11.**—(1) Amend the Stakeholder Pension Schemes Regulations 2000**(a)** as follows.

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(a) S.I. 1996/1537; the relevant amending instrument is S.I. 2006/744.

(b) S.I. 1996/1655; the relevant amending instruments are S.I. 1997/786, 2005/706 and 3377.

(c) S.I. 2000/1050 (S.4).

(d) S.I. 2000/1051 (S.5).

- (2) In regulation 14(b) (charges and other permitted reductions in members' rights)—
- (a) in paragraph (1) for “paragraphs (2) to (5)” substitute “paragraphs (2) to (5A)”; and
  - (b) after paragraph (5) insert—
    - “(5A) The value of a member’s rights under the scheme may be reduced by the amount of any payment made to discharge the liability of the trustees or managers in respect of any tax liability under the Finance Act 2004 in relation to that member.”.

**Amendment of the Occupational Pension Schemes (Winding up etc.) Regulations 2005**

**12.**—(1) Amend the Occupational Pension Schemes (Winding up etc.) Regulations 2005(c) as follows.

- (2) In regulation 3(1) (schemes to which section 73 of the Pensions Act 1995 does not apply)—
- (a) in sub-paragraph (j), for head (i) substitute—
    - “(i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme; or”;
  - (b) in sub-paragraph (k)—
    - (i) for head (i) substitute—
      - “(i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee is made by the unanimous agreement of the directors who are members of the scheme; or”;
    - (ii) at the end of head (ii) insert “or”;
  - (c) at the end of sub-paragraph (l) omit “or”; and
  - (d) omit sub-paragraph (m).
- (3) In regulation 8(4)(a) (entitlement to death benefits treated as arising before commencement of winding up period) for “former spouse” substitute “former spouse, former civil partner”.

**Amendment of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005**

**13.**—(1) Amend the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005(d) as follows.

- (2) In regulation 2 (prescribed schemes)—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (f)(i) for “all decisions which fall to be made by the trustees are made by unanimous agreement by” substitute “any decision made by the trustees is made by the unanimous agreement of”;
    - (ii) in sub-paragraph (g)—
      - (aa) for “where a company is a trustee” substitute “where a company is the sole trustee”;
      - (bb) in head (i) for “are made by the unanimous agreement of all the directors” substitute “is made by the unanimous agreement of the directors”;
      - (cc) in head (ii) for “one of the directors is a trustee who” substitute “one of the directors of the company”;
    - (iii) at the end of sub-paragraph (j) insert “or”;
    - (iv) at the end sub-paragraph (k) omit “or”; and

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(a) S.I. 2000/1403; the relevant amending instrument is S.I. 2005/577.  
 (b) Regulation 14 was substituted for the original regulation 14 by S.I. 2005/577.  
 (c) S.I. 2005/706; the relevant amending instrument is S.I. 2006/467.  
 (d) S.I. 2005/2184.

- (v) omit sub-paragraph (l); and
- (b) in paragraph (2) for “paragraph 1(a) to (l)” substitute “paragraph 1(a) to (k)”.

**Amendment of the Pension Schemes (Categories) Regulations 2005**

**14.—**(1) Amend the Pension Schemes (Categories) Regulations 2005(a) as follows.

(2) In regulation 2 (prescription of certain pension schemes as occupational pension schemes) after paragraph (5) add—

“(6) This regulation applies to the Pilots’ National Pension Fund which is a pilots’ benefit fund established under byelaws made by the Trinity House of Deptford Strond under section 15(1)(i) of the Pilotage Act 1983(b).”.

**Amendment of the Occupational Pension Schemes (Scheme Funding) Regulations 2005**

**15.—**(1) Amend the Occupational Pension Schemes (Scheme Funding) Regulations 2005(c) as follows.

(2) In regulation 17(1) (exemptions-general)—

- (a) in sub-paragraph (h)—
  - (i) for “a scheme which has” substitute “a scheme with”;
  - (ii) in head (i) for “all decisions which fall to be made by the trustees are” substitute “any decision made by the trustees is”; and
  - (iii) in head (ii), for “who is an independent trustee” substitute “who is independent”; and
- (b) in sub-paragraph (i)—
  - (i) for “a scheme which has” substitute “a scheme with”;
  - (ii) for “where a company is a trustee” substitute “where a company is the sole trustee”;
  - (iii) in head (i), for “is made only by the unanimous agreement” substitute “is made by the unanimous agreement”; and
  - (iv) in head (ii), for “one of the directors is a trustee who” substitute “one of the directors of the company”.

(3) In Schedule 3 (supplementary and consequential provisions) in paragraph 3(2)—

- (a) for “paragraph (1)(b)” substitute “sub-paragraph (1)(b)”;
- (b) for “(except excluded persons)” substitute “(except excluded persons or a member or beneficiary whose only entitlement to benefits under the scheme is, or will be, to money purchase benefits)”;
- (c) for sub-paragraph (c) substitute—
  - “(c) an estimate by the actuary of the solvency of the scheme, or, if the actuary has made more than one estimate of solvency, the latest such estimate;
- (d) whether any payment has been made to the employer under section 37 of the 1995 Act—
  - (i) in the case of the first summary funding statement issued in respect of the scheme, in the 12 months preceding the date on which it is prepared, and
  - (ii) in the case of any subsequent summary funding statement, since the date of the last such statement,
 and, if so, the amount of the payment.”.

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(a) S.I. 2005/2401.

(b) 1983 c.21. Section 15 was repealed by Schedule 3 to the Pilotage Act 1987 (c.21) and saved by paragraph 4 of Schedule 1 to that Act so that any pilots’ benefit fund established under section 15(1)(i) of the Pilotage Act 1983 continues in existence notwithstanding the repeal of section 15.

(c) S.I. 2005/3377; amended by S.I. 2006/1733.

- (4) In Schedule 4 (transitional provisions and savings) in paragraph 3—
- (a) in sub-paragraph (4) omit “and the trustees or managers have determined before that date” to the end of that sub-paragraph; and
  - (b) in sub-paragraph (5) for “the effective date they have determined” substitute “an effective date which is no earlier than 22nd September 2005 and not more than three years after the effective date of the last valuation they received under the 1995 Act.”.

#### **Amendment of the Occupational Pension Schemes (Investment) Regulations 2005**

**16.—**(1) Amend the Occupational Pension Schemes (Investment) Regulations 2005(a) as follows.

(2) In regulation 1 (citation, commencement and interpretation) in paragraph (2)(a)(i) in the definition of “small scheme” for “by unanimous agreement by” substitute “by the unanimous agreement of”.

(3) In regulation 12(1) (restrictions on employer-related investments) for “applies to trust schemes” substitute “applies to schemes”.

#### **Amendment of the Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005**

**17.—**(1) Amend the Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005(b) as follows.

(2) In regulation 10(8) (postponement) for “given in regulation 11” substitute “given in regulation 3 of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005(c) (meaning of “European employer” and “host member State” in Part 7 of the Pensions Act 2004).”.

(3) Omit regulation 11 (meaning of “European employer”).

(4) In regulation 15(1) (exemptions)—

(a) in sub-paragraph (h)—

(i) for “a scheme which has” substitute “a scheme with”;

(ii) in head (i) for “all decisions which fall to be made by the trustees are” substitute “any decision made by the trustees is”; and

(iii) in head (ii), for “who is an independent trustee” substitute “who is independent”; and

(b) in sub-paragraph (i)—

(i) for “a scheme which has” substitute “a scheme with”;

(ii) for “where a company is a trustee” substitute “where a company is the sole trustee”;

(iii) in head (i), for “is made only by the unanimous agreement” substitute “is made by the unanimous agreement”; and

(iv) in head (ii), for “one of the directors is a trustee who” substitute “one of the directors of the company”.

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

**18.—**(1) Amend the Occupational Pension Schemes (Cross-border Activities) Regulations 2005(d) as follows.

(2) In regulation 2 (interpretation)—

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(a) S.I. 2005/3378, to which there are amendments not relevant to these Regulations.

(b) S.I. 2005/3380.

(c) S.I. 2005/3381.

(d) S.I. 2005/3381; amended by S.I. 2006/467 and 925.



- (a) in paragraph (1) in the definition of “segregated multi-employer scheme” in sub-paragraph (b) for “a specified part or proportion” substitute “a specified proportion”;
  - (b) in paragraph (3) for “Where a scheme is a segregated multi-employer scheme” substitute “Subject to paragraph (4), where a scheme is a segregated multi-employer scheme”; and
  - (c) after paragraph (3) add—
    - “(4) This paragraph applies where—
      - (a) a European employer is an employer in relation to a segregated multi-employer scheme;
      - (b) that European employer is an associate of one or more employers in relation to that scheme.
    - (5) Where paragraph (4) applies, all sections of the scheme that receive contributions from at least one of the employers referred to in that paragraph are together to be treated as a separate scheme for the purposes of regulations 7(2)(d) and 8(5).
    - (6) In paragraph (4)(b) “associate” has the meaning given in section 435 of the Insolvency Act 1986<sup>(a)</sup> (associated employer).”.
- (3) In regulation 3 (meaning of “European employer” and “host member State” in Part 7 of the Pensions Act 2004) for paragraph (1) substitute—
- “(1) Subject to paragraphs (2) to (4), in Part 7 of the Act “European employer” means a person who in relation to a host member State either—
- (a) employs qualifying persons in that member State; or
  - (b) is a qualifying self-employed person in that member State,
- and is making (or proposes to make) contributions to a scheme either in respect of a qualifying person or in respect of himself as a qualifying self-employed person.”.
- (4) In regulation 5 (applications for general authorisation to accept contributions from European employers: established schemes which are carrying on cross-border activity)—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (b) for “section 288;” substitute “section 288; or”; and
    - (ii) after that sub-paragraph add—
      - “(c) the trustees or managers of that scheme apply, on or after 6th April 2007, to the Regulator for authorisation under section 288.”;
  - (b) in paragraph (2) for “Subject to paragraph (3), such” substitute “Subject to paragraph (3) or (4), where the application is made before 22nd September 2008, such”; and
  - (c) after paragraph (3) add—
    - “(4) In a case where the trustees or managers of a pre-23rd September 2005 scheme make an application on or after 22nd September 2008—
      - (a) where the scheme is a money purchase scheme, such an application shall be made in a form which provides the information described in paragraphs 2 and 3 of Schedule 1; or
      - (b) where the scheme is not a money purchase scheme, such an application shall be made in a form which provides the information described in paragraphs 2 and 4 of that Schedule.”.
- (5) In regulation 7(2) (conditions for general authorisation to accept contributions from European employers) in sub-paragraph (d) for head (ii) substitute—
- “(ii) where the application is made under regulation 5—
- (aa) in a case where the application is made on or after 6th April 2007 but before 22nd September 2008, that the scheme to which the application

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(a) 1986 c.45; section 435 was amended by section 261(1) of, and paragraph 122 of Schedule 27 to, the Civil Partnership Act 2004 and by S.I. 2005/3129.

relates will, in the opinion of the Regulator, meet the statutory funding objective by 22nd September 2008; or

- (bb) in a case where the application is made on or after 22nd September 2008, that the scheme to which the application relates meets the statutory funding objective; or”.

(6) In regulation 10 (applications for approval in relation to particular European employer: established schemes which are carrying on cross-border activity)—

- (a) in paragraph (1)—

- (i) at the end of sub-paragraph (b) insert “or”; and
- (ii) after that sub-paragraph insert—

“(c) the trustees or managers of that scheme make an application for approval under section 289 in relation to one or more European employers on or after the end of that period.”.

- (b) in paragraph (2), for “Subject to paragraph (3), the information to be contained in the notice of intention relating to such an application,” substitute “Subject to paragraph (3) or (4), the information to be contained in the notice of intention relating to such an application, where the application is made before 22nd September 2008”; and

- (c) after paragraph (3) add—

“(4) In a case where an application is made on or after 22nd September 2008—

- (a) where the scheme is a money purchase scheme, such an application shall be made in accordance with the provisions of paragraph 6(1), (2), (3) and (7) of Schedule 1; or
- (b) where the scheme is not a money purchase scheme, such an application shall be made in accordance with the provisions of paragraph 6(1), (2), (4) and (7) of that Schedule.”.

(7) In regulation 15(3) (ring-fencing of assets) at the beginning of sub-paragraph (b)(ii) insert “within a time specified by the Regulator (subject to any extension the Regulator may subsequently grant),”.

- (8) After regulation 18 (consequential amendment) add—

**“Treatment of overseas residents: section 66A of the Pensions Act 1995**

**19.** Where the provisions of an occupational pension scheme comply with these Regulations those provisions shall not contravene section 66A(3) of the Pensions Act 1995(a) to the extent that they would, apart from that section, have an effect with respect to the matters specified in paragraphs (a) to (c) of that section, which would be different according to whether that person works wholly in the United Kingdom or wholly or partly outside the United Kingdom.”.

(9) In Schedule 1 (additional information to be contained in applications for authorisation or approval) in paragraph 6(7)—

- (i) at the end of paragraph (h) omit “and”; and
- (ii) after paragraph (i) add—
  - “(j) the number of members in the scheme; and
  - (k) whether the scheme has any external, contractual-based asset manager.”.

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(a) Section 66A was inserted by section 55 of the Child Support, Pensions and Social Security Act 2000.

### **Amendment of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006**

**19.**—(1) Amend the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006(a) as follows.

(2) In regulation 4(4) (excluded employers: occupational pension schemes) in the definition of “small occupational pension scheme”—

- (a) in sub-paragraph (a)(i) for “all decisions which fall to be made by the trustees are made by the unanimous agreement by” substitute “any decision made by the trustees is made by the unanimous agreement of”; and
- (b) in sub-paragraph (b)—
  - (i) for “where a company is a trustee” substitute “where a company is the sole trustee”;
  - (ii) in head (i) for “are made by the unanimous agreement of all the directors” substitute “is made by the unanimous agreement of the directors”; and
  - (iii) in head (ii) for “one of the directors is a trustee who” substitute “one of the directors of the company”.

### **Amendment of the Occupational Pension Schemes (Trustees’ Knowledge and Understanding) Regulations 2006**

**20.**—(1) Amend the Occupational Pension Schemes (Trustees’ Knowledge and Understanding) Regulations 2006(b) as follows.

(2) In regulation 2 (exceptions for trustees of small schemes)—

- (a) in paragraph (1)(a) for “all decisions which fall to be made by the trustees are made by the unanimous agreement by” substitute “any decision made by the trustees is made by the unanimous agreement of”; and
- (b) in paragraph (2)—
  - (i) for “where a company is a trustee” substitute “where a company is the sole trustee”;
  - (ii) in sub-paragraph (a) for “made by the unanimous agreement of all the directors” substitute “made by the unanimous agreement of the directors”; and
  - (iii) in sub-paragraph (b) for “one of the directors is a trustee who” substitute “one of the directors of the company”.

### **Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 2006**

**21.**—(1) Amend the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 2006(c) as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) for the definition of “relevant small occupational pension scheme” substitute—

““relevant small occupational pension scheme” means a scheme with fewer than twelve members, where—

- (a) all the members are trustees of the scheme and either—
  - (i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme, or
  - (ii) the scheme has a trustee who is independent in relation to the scheme for the purposes of section 23 of the 1995 Act(a) (power to appoint independent

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(a) S.I. 2006/349; amended by S.I. 2006/778.

(b) S.I. 2006/686.

(c) S.I. 2006/714.

- trustees), and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section; or
- (b) all the members are directors of a company which is the sole trustee of the scheme, and either—
- (i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee are made by the unanimous agreement of the directors who are members of the scheme, or
- (ii) one of the directors of the company is independent in relation to the scheme for the purposes of section 23 of the 1995 Act, and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section;”.
- (3) In regulation 2 (exemptions from requirement to have member-nominated trustees)—
- (a) at the end of paragraph (n) omit the word “or”; and
- (b) after paragraph (o) add—
- “(p) is set up under section 18 of the Government of Wales Act 1998(b);
- (q) is designated as an existing scheme by virtue of article 15 of the Railway Pensions (Protection and Designation of Schemes) Order 1994(c) (designation of existing schemes).”.
- (4) In regulation 3 (prescribed exemptions from requirement to have member-nominated directors of corporate trustees)—
- (a) omit the word “or” at the end of paragraph (p); and
- (b) after paragraph (q) add—
- “(r) is set up under section 18 of the Government of Wales Act 1998;
- (s) is designated as an existing scheme by virtue of article 15 of the Railway Pensions (Protection and Designation of Schemes) Order 1994.”.
- (5) In column 2 in the table in the Schedule—
- (a) in the fifth row for “2001/3649” substitute “S.I. 2001/3649”; and
- (b) in the sixth row for “2002/3227” substitute “S.I. 2002/2327”.

## Revocations

**22.** Regulation 4 of the Occupational Pension Schemes (Winding Up) (Modification for Multi-employer Schemes and Miscellaneous Amendments) Regulations 2005(**d**) (amendment of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996) is revoked.

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

*James Purnell*  
Minister of State,  
Department for Work and Pensions

12th March 2007

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(a) Section 23 was substituted by section 36(3) of the Pensions Act 2004.

(b) 1998 c.38. Section 18 is repealed by section 163 of, and Schedule 12 to, the Government of Wales Act 2006 (c.32). That repeal is to come into force immediately after the ordinary elections under section 3 of the Government of Wales Act 1998 held in 2007. *See* also section 20 of the Government of Wales Act 2006 which contains provisions similar to those in section 18 of the Government of Wales Act 1998. Section 20 of that Act is to come into force immediately after the ordinary elections under section 3 of the Government of Wales Act 1998 held in 2007.

(c) S.I. 1994/1432, to which there are amendments not relevant to these Regulations.

(d) S.I. 2005/2159.

## EXPLANATORY NOTE

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

These Regulations amend various Regulations concerning occupational and personal pension schemes.

Regulation 2 amends the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110) to omit or, as the case may be, update references to other legislation.

Regulation 3 amends the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167), amongst other things, to substitute a new regulation 5 enabling the payment of short service benefit in the form of a lump sum before normal pension age, where the payment satisfies requirements contained in the Finance Act 2004 (c.12) for lump sum payments by pension schemes.

Regulation 4 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) to substitute a new definition of “overseas scheme”. It also prescribes the fixed rate of revaluation of accrued rights to a guaranteed minimum pension, where contracted-out employment ceases on or after 6th April 2007, as 4 per cent.

Regulation 5 amends the Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461) and regulation 6 amends the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462) in each case to extend the definition of “overseas scheme” to cover “European pensions institution” as defined in section 293(8) of the Pensions Act 2004 (c.35).

Regulation 7 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537) to omit regulation 8(2) enabling schemes to give effect to a part of a member’s protected rights in the form of a lump sum in accordance with the Finance Act 2004. Regulation 8(2) is no longer needed as it applies only to lump sums paid on grounds of triviality and the link in paragraphs 7 to 9 of Part 1 of Schedule 29 to the Finance Act 2004 already provides for this.

Regulation 8 amends the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655) to make it clear that the trustees of an occupational pension scheme are not required to provide the information under regulation 5(12ZA) to a member whose only entitlement to benefits is, or will be, to money purchase benefits.

Regulation 9 amends the Divorce etc. (Notification and Treatment of Pensions) (Scotland) Regulations 2000 (S.I. 2000/1050) and regulation 10 amends the Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000 (S.I. 2000/1051) in each case to make provision for civil partnerships.

Regulation 11 amends the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403) to allow a member’s benefits to be reduced to take account of any payment in respect of any tax liability in relation to the member in accordance with the Finance Act 2004.

Regulation 12 amends the Occupational Pension Schemes (Winding up etc.) Regulations 2005 (S.I. 2005/706) to cover, amongst other things, civil partnerships.

Regulation 13 amends the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2184) to amend the provisions concerning a scheme with fewer than twelve members where all of the members are trustees of the scheme. It also amends the provisions concerning a scheme with fewer than twelve members where a company is the sole trustee of the scheme.

Regulation 14 amends the Pension Schemes (Categories) Regulations 2005 (S.I. 2005/2401) to prescribe a further scheme which is an occupational pension scheme.

Regulation 15 amends the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377), amongst other things, to exempt the trustees and managers of a scheme from having to disclose a summary funding statement containing prescribed information in accordance

with paragraph 3(2) of Schedule 3 to members who are, or will be, entitled only to money purchase benefits.

Regulation 16 amends the Occupational Pension Schemes (Investment) Regulations 2005 (S.I. 2005/3378), amongst other things, to extend the scope of regulation 12 to cover all occupational pension schemes.

Regulation 17 amends the Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005 (S.I. 2005/3380) to amend the definition of “European employer”. It also amends the description of a small scheme.

Regulation 18 amends the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), amongst other things, to enable occupational pension schemes that currently carry out cross-border activities within the European Union to apply to the Pensions Regulator for authorisation or approval on or after 6th April 2007 and prescribes the manner and form in which the trustees or managers of such occupational pension schemes must apply. It also makes provision for the Pensions Regulator to instruct the trustees or managers of a scheme to complete the ring-fencing of the scheme within a specified period of time.

Regulation 19 amends the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349) to amend the definition of “small occupational pension scheme”.

Regulation 20 amends the Occupational Pension Schemes (Trustees’ Knowledge and Understanding) Regulations 2006 (S.I. 2006/686) to amend the description of small schemes which are exempt from the requirements of section 247(3) and (4) and 248(3) and (5) of the Pensions Act 2004.

Regulation 21 amends the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 2006 (S.I. 2006/714) to amend the definition of “relevant small occupational pension scheme” and to add to the list of schemes exempt from the member-nominated trustees’ and member-nominated directors of corporate trustees’ requirements.

Regulation 22 revokes regulation 4 of the Occupational Pension Schemes (Winding Up) (Modification for Multi-employer Schemes and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2159).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

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**FAMILY LAW**

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