

---

## STATUTORY INSTRUMENTS

---

### 2005 No. 2184

## The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005

### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005 and shall come into force on 1st September 2005.

(2) Save where the context otherwise requires, any reference in these Regulations to a numbered section or Chapter of Part 2 is to the section or Chapter of Part 2 of the Pensions Act 2004 bearing that number.

(3) In these Regulations—

“the 1988 Act” means the Income and Corporation Taxes Act 1988 <sup>M1</sup>;

“the 1993 Act” means the Pension Schemes Act 1993 <sup>M2</sup>;

“the 1995 Act” means the Pensions Act 1995 <sup>M3</sup>;

“the 1999 Act” means the Welfare Reform and Pensions Act 1999;

“the 2004 Act” means the Finance Act 2004 <sup>M4</sup>;

“accrued rights” has the meaning given in section 124(2) of the 1995 Act (interpretation);

“application date” means the date on which an application was made in accordance with the requirements of section 182(1)(d) and (e) (requirements for applications);

“approved scheme” means a scheme which is approved or was formerly approved under section 590 or 591 (conditions for approval of retirement benefit schemes and discretionary approval respectively) of the 1988 Act <sup>M5</sup>, or in respect of which an application for such approval has been duly made and which has not yet been determined;

“assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period), the last one, began;

“beneficiary” means a person, other than a member of the scheme, who is entitled to the payment of benefits under the scheme;

“ear-marked scheme” means a scheme—

- (a) under which all of the benefits, other than death benefits, are money purchase benefits,
- (b) all of the benefits are secured by one or more policies of insurance, or annuity contracts, and
- (c) such policies, or contracts, are specifically allocated to the provision of benefits for an individual member, or any other person, who has a right to benefits under the scheme;

“the Entry Rules Regulations” means the Pension Protection Fund (Entry Rules) Regulations 2005 <sup>M6</sup>;

“fraud compensation provisions” means sections 182 to 186 (fraud compensation);

“guaranteed minimum pension” has the meaning given in section 8(2) of the 1993 Act (meaning of guaranteed minimum pension);

“the Information Regulations” means the Pension Protection Fund (Provision of Information) Regulations 2005 <sup>M7</sup>;

“the loss” means the reduction falling within section 182(1)(b) (reduction of scheme assets);

“the Multi-Employer Regulations” means the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 <sup>M8</sup>;

“multi-employer scheme” means a scheme in relation to which there is more than one employer;

“normal pension age” has the meaning given in section 180 of the 1993 Act (normal pension age);

“partially guaranteed scheme” means an eligible scheme in respect of which a relevant public authority has—

- (a) given a guarantee in relation to—
  - (i) any part of the scheme;
  - (ii) any benefits payable under the scheme rules; or
  - (iii) any members of the scheme; or
- (b) made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities;

[<sup>F1</sup>“PPF valuation” means an actuarial valuation obtained under section 143(2)(b) (valuation of assets and protected liabilities);]

“public body” means a government department or any non-departmental public body established by an Act of Parliament or by a statutory instrument made under an Act of Parliament to perform functions conferred on it under or by virtue of that Act or instrument or any other Act or instrument;

“registered pension scheme” has the meaning given in section 150(2) of the 2004 Act (meaning of pension scheme);

“relevant benefits” has the meaning given in section 612(1) of the 1988 Act <sup>M9</sup> (other interpretative provisions);

“relevant insurer” means, in relation to an annuity contract or policy of insurance under which scheme benefits are or were secured, the person with whom the contract is made;

“relevant public authority” has the meaning given in section 307(4);

“relevant statutory scheme” has the meaning given in section 611A of the 1988 Act <sup>M10</sup> (definition of relevant statutory scheme);

“the Reviewable Matters Regulations” means the Pension Protection Fund (Reviewable Matters) Regulations 2005 <sup>M11</sup>;

“the Review and Reconsideration Regulations” means the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005 <sup>M12</sup>;

“scheme” means an occupational pension scheme;

“segregated part” means, in relation to—

- (a) a non-segregated scheme, a part of the scheme which is created when the rules of the scheme require the trustees or managers, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the liabilities of the scheme to provide pensions or

other benefits to or in respect of the pensionable service of members of the scheme by reference to that employer;

- (b) a multi-employer section of a segregated scheme, a part of the section which is created when the rules of the scheme relating to that section require the trustees or managers of the section, in circumstances where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of members of the section by reference to that employer;

“segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer's or that member's section, and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section,

and non-segregated scheme shall be read accordingly;

“stakeholder pension scheme” means a stakeholder pension scheme within the meaning of section 1 of the 1999 Act<sup>M13</sup> (meaning of stakeholder pension scheme) which is established under a trust;

[<sup>F2</sup>“transfer notice” is to be construed in accordance with section 160 (transfer notice);

“transfer payment” means a fraud compensation transfer payment made under section 187(2) (Board’s powers to make fraud compensation transfer payments);]

“unsecured part” means any part of a partially guaranteed scheme—

- (a) in respect of which no guarantee has been given by a relevant public authority; and
- (b) which relates to benefits payable under the scheme in respect of which—
  - (i) no such guarantee has been given; and
  - (ii) no other arrangements as are mentioned in section 307(3)(b) have been made.

(4) In these Regulations, “employer”, in relation to—

- (a) a scheme which is not a multi-employer scheme; or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it.

(5) In these Regulations “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
  - (i) condition A is that a debt under section 75 of the 1995 Act<sup>M14</sup> (deficiencies in the assets) became due from that employer and the full amount of the debt has been paid before the assessment date;
  - (ii) condition B is that—
    - (aa) such a debt became due,
    - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and

- (cc) the reduced amount has been paid in full before the assessment date;
  - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
  - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
- (i) condition A is that a debt under section 75 of the 1995 Act became due from that employer and the full amount of the debt has been paid;
  - (ii) condition B is that—
    - (aa) such a debt became due,
    - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
    - (cc) the reduced amount has been paid in full;
  - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
  - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.

### Textual Amendments

- F1** Words in reg. 1(3) substituted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), 7, 9(1)(g)(2) (with reg. 10)
- F2** Words in reg. 1(3) inserted (6.4.2010) by [Occupational Pension Schemes \(Fraud Compensation Payments and Miscellaneous Amendments\) \(Amendment\) Regulations 2010 \(S.I. 2010/483\)](#), regs. 1(1), 2

### Marginal Citations

- M1** 1988 c. 1.
- M2** 1993 c. 48.
- M3** 1995 c. 26.
- M4** 2004 c. 12.
- M5** Section 590 was amended by section 35 of, and paragraph 18 of Part 1 of Schedule 3 to, the [Finance Act 1988 \(c. 39\)](#); sections 75 and 187 of, and paragraphs 3 and 18(2) and (3) of Schedule 6, and Part 4 of Schedule 17 to, the [Finance Act 1989 \(c. 26\)](#); sections 34(2) to (4), 36(2) and (3) and 123 of, and Part 5 of Schedule 19 to, the [Finance Act 1991 \(c. 31\)](#); and section 79 of, and paragraphs 2(1) to (4) and (7) and (8) and 18(1) and (3) of Schedule 10 to, the Finance Act 1999 (c 16). Section 591 was amended by section 146 of, and paragraph 6 of Part 1 of Schedule 13 to, the Finance Act 1988; sections 107(2) to (4) and 258 of, and Part 5 of Schedule 26 to, the [Finance Act 1994 \(c. 9\)](#); sections 59(2) and 60(1) of the [Finance Act 1995 \(c. 4\)](#); and section 79 of, and paragraphs (3)(a) and (b) and 18(1) and (3) of Schedule 10 to, the Finance Act 1999. Sections 590 and 591 will be repealed by Part 3 of Schedule 42 to the [Finance Act 2004 \(c. 12\)](#) with effect from 6th April 2006.

- M6** [S.I. 2005/590](#) as amended by [S.I. 2005/993](#), [S.I. 2005/2113](#) and [S.I. 2005/2153](#).
- M7** [S.I. 2005/674](#) as amended by [S.I. 2005/2113](#).
- M8** [S.I. 2005/441](#) as amended by [S.I. 2005/993](#) and [S.I. 2005/2113](#).
- M9** Section 612 will be repealed by Part 3 of Schedule 42 to the Finance Act 2004 with effect from 6th April 2006.
- M10** Section 611A was inserted by section 75 of, and paragraphs 15 and 18(1) of Schedule 6 to, the Finance Act 1989, and amended by section 52(1) of, and paragraph 5 of Schedule 5 to, the Finance Act 1999. Section 611A will be repealed by Part 3 of Schedule 42 to the Finance Act 2004 with effect from 6th April 2006.
- M11** [S.I. 2005/600](#).
- M12** [S.I. 2005/669](#), as amended by [S.I. 2005/993](#) and [S.I. 2005/2113](#).
- M13** Section 1 was amended by section 285(1) of the Pensions Act 2004.
- M14** Section 75 was amended by section 271 of the Pensions Act 2004.

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005, Section 1.