
STATUTORY INSTRUMENTS

2005 No. 695

**The Pensions Act 2004 (Commencement No. 3,
Transitional Provisions and Amendment) Order 2005**

Citation and interpretation

1.—(1) This Order may be cited as the Pensions Act 2004 (Commencement No.3, Transitional Provisions and Amendment) Order 2005.

(2) In this Order—

“the Act” means the Pensions Act 2004;

“the 1993 Act” means the Pension Schemes Act 1993 ^{M1};

“the 1995 Act” means the Pensions Act 1995 ^{M2}; and

“the Authority” means the Occupational Pensions Regulatory Authority established by section 1 of the 1995 Act.

Marginal Citations

M1 1993 (c. 48).

M2 1995 (c. 26).

Appointed days

2.—(1) The day appointed for the coming into force of section 10 of the Act (functions exercisable by the Determinations Panel) in so far as not already brought into force, and of Schedule 2 to the Act (the reserved regulatory functions), is 6th April 2005 ^{M3}.

(2) The day appointed for the coming into force of section 272 of the Act (debt due from the employer in the case of multi-employer schemes), in so far as not already brought into force, is 15th March 2005.

(3) The day appointed for the coming into force of section 300(1) of the Act (dissolution of the Authority) is 6th April 2005 (“the appointed day”).

(4) The day appointed for the coming into force of sections 278 and 280 for the purpose only of conferring power to make regulations is 15th March 2005.

(5) The day appointed for the coming into force of paragraph 21 of Schedule 1 to the Act (Pensions Regulator – delegation) is 15th March 2005 for the purpose only of conferring power to make regulations, and 6th April 2005 for all other purposes.

(6) The day appointed for the coming into force of Schedule 13 to the Act in so far as it relates to the repeal of paragraph 1(2)(a) of Schedule 1 to the Welfare Reform and Pensions Act 1999 ^{M4}, and section 320 of the Act in so far as it relates to that provision, is 1st April 2005.

(7) The day appointed for the coming into force of the provisions set out in Schedule 1 to this Order is 6th April 2005.

Marginal Citations

- M3** Subsection (9)(b) of section 10 of the Pensions Act 2004 (“the Act”) was partially brought into force on 17th December 2004 by the Pensions Act 2004 (Commencement No. 1 and Consequential and Transitional Provisions) Order 2004 (S.I. 2004/3350 (C.157)), and subsection (5)(a) of section 10 was brought into force on 10th February 2005 for regulation making purposes only and on 6th April 2005 for all other purposes by Part 3 of the Schedule to the Pensions Act 2004 (Commencement No. 2, Transitional Provisions and Consequential Amendments) Order 2005 (S.I. 2005/275 (C.10)). Section 10(4) of the Act gives effect to Schedule 2 to the Act.
- M4** 1999 c. 30.

Transfer of property, rights and liabilities

3.—(1) Subject to paragraph (2), all property, rights and liabilities to which the Authority is entitled or subject immediately before the appointed day shall, on that day, become the property, rights and liabilities of the Regulator.

(2) All property held by the Authority in relation to the carrying out of its function (as Registrar^{M5}) under regulation 6(1)(a) of the Register of Occupational and Personal Pension Schemes Regulations 1997^{M6} (availability of information held on the register) immediately before the appointed day shall, on that day, become the property of the Secretary of State.

Marginal Citations

- M5** Section 6(1)(b) of the Pension Schemes Act 1993 provides for the appointment of a Registrar of Occupational and Personal Pension Schemes (“the Registrar”). Regulation 2(2) of the [Register of Occupational and Personal Pension Schemes Regulations 1997](#) (S.I. 1997/371) appoints the Occupational Pensions Regulatory Authority (“the Authority”) as the Registrar. The function referred to under regulation 6(1)(a) of those Regulations is conferred on the Registrar.
- M6** S.I. 1997/371.

Transitional modification of section 10 of the Act

4. Section 10 of the Act (functions exercisable by the Determinations Panel) shall, for the purposes of paragraph (6)(b) and (c) of article 5 of this Order, be modified for so that it shall have effect as if, after subsection (4), there were inserted the following subsection—

“(4A) For the purposes of this Part, a function conferred on the Occupational Pensions Regulatory Authority (“OPRA”) by or by virtue of the Pensions Act 1995 relating to—

- (a) the review, under section 96 of that Act (review of decisions), of a determination made by OPRA before the 6th April 2005 (“the appointed day”) of a question falling within OPRA's functions, or
- (b) the reference for a decision by the court, under section 97 of that Act (references and appeals from the Authority), of any matter arising for determination by OPRA before the appointed day or of any matter arising before that day on—
 - (i) an application for a review of a determination; or
 - (ii) a review entered upon by OPRA without an application,

shall, where that function falls to be exercised by or in relation to the Regulator on or after the appointed day, also be a reserved regulatory function.”.

Transitional provisions

5.—(1) In this article, unless the context otherwise requires, “function of the Authority” means a function of the Authority which is transferred to the Regulator under subsection (1) of section 7 of the Act (transfer of OPRA's functions to the Regulator) on 6th April 2005 (“the appointed day”) ^{M7}.

(2) Anything done (or having effect as if done) by or in relation to the Authority before the appointed day pursuant to, or for the purposes of, any function of the Authority shall, so far as is required for continuing its effect, have effect as if done by or in relation to the Regulator pursuant to, or for the purposes of, that function.

(3) Subject to paragraph (5), anything which, immediately before the appointed day, is in the process of being done by or in relation to the Authority pursuant to, or for the purposes of, any function of the Authority shall be continued by or in relation to the Regulator pursuant to, or for the purposes of, that function.

(4) Any reference to the Authority in any document constituting or relating to anything to which paragraph (2) or (3) applies in relation to any function of the Authority shall, so far as is required for giving effect to those provisions, be construed as a reference to the Regulator.

(5) Where any function of the Authority described in paragraph (6) would, but for its dissolution, fall to be exercised on or after the appointed day, or fell to be exercised before the appointed day but has not been exercised, that function shall be exercised by the Regulator as if it were a function of the Regulator conferred on it under or by virtue of the Act.

(6) The functions of the Authority to which paragraph (5) refers are—

- (a) the investigation of any matter falling within the Authority's functions where the matter under investigation occurred, or first occurred, before the appointed day,
- (b) the review, under section 96 of the 1995 Act, of a determination made by the Authority before the appointed day of a question falling within the Authority's functions, and
- (c) the reference for a decision by the court, under section 97 of the 1995 Act, of any matter arising for determination by the Authority before the appointed day or of any matter arising before that day on an application for a review of a determination or on a review entered upon by the Authority without an application.

(7) Where any function under regulation 6(1)(a) of the Register of Occupational and Personal Pension Schemes Regulations 1997 fell to be exercised by the Authority, as Registrar, before the appointed day but has not been exercised, or would have fallen to be exercised by the Authority on or after the appointed day, that function shall be exercised by the Secretary of State (or by a person appointed by him).

(8) Schedule 2, which makes further transitional provision, has effect.

Marginal Citations

M7 Section 7(1) of the Pensions Act 2004 makes provision in respect of the transfer to the Pensions Regulator of the functions of the Occupational Pensions Regulatory Authority which are conferred by or by virtue of the Pension Schemes Act 1993, the [Pensions Act 1995 \(c. 26\)](#) and the Welfare Reform and Pensions Act 1999.

Savings

6. Subject to the transitional provisions in Schedule 2, the provisions of the enactments that are specified in the table in Schedule 3 shall, so far as is required for the purpose of giving effect to paragraph (3) of article 5, continue to have effect as they were in force immediately before their amendment by any of the provisions of Part 1 of, and Schedule 12 to, the Act.

[^{F1}6A.—(1) Notwithstanding the repeals of section 74 of the 1995 Act (discharge of liabilities by insurance, etc.) mentioned in Schedule 1, that section shall continue to have effect as it applied immediately before 6th April 2005 to any scheme which—

- (a) was regarded at that time by virtue of regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (commencement of winding up) as having begun to be wound up for the purposes of those Regulations; or
- (b) in accordance with section 124(3A) to (3E) of the 1995 Act (interpretation: time at which the winding up of an occupational pension scheme shall be taken to begin) began to wind up before that date.

(2) In paragraph (1), the reference to a scheme includes a reference to any section of a scheme to which section 74 of the 1995 Act applies as if it were a scheme by virtue of regulation 12 of those Regulations (winding up of sectionalised schemes etc.).]

<p>F1 Art. 6A inserted (5.4.2005) by Pensions Act 2004 (Commencement No.4 and Amendment) Order 2005 (S.I. 2005/1108), art. 3(a)</p>
--

Amendment of the Pensions Act 2004 (Commencement No.2, Transitional Provisions and Consequential Amendments) Order 2005

7. In Part 7 of the Schedule to the Pensions Act 2004 (Commencement No.2, Transitional Provisions and Consequential Amendments) Order 2005, omit “section 272(13) and (14)”.

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

14th March 2005

Malcolm Wicks
Minister of State, Department for Work and
Pensions

Changes to legislation:

There are currently no known outstanding effects for the The Pensions Act 2004 (Commencement No. 3, Transitional Provisions and Amendment) Order 2005.