

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further provision for the coming into force of the Pensions Act 2004. In particular, it makes provision in connection with the coming into force of section 300(1) of the Pensions Act 2004 (c. 35) (“the Act”) which provides for the dissolution of the Occupational Pensions Regulatory Authority (“the Authority”) and under section 300(2) of the Act for the transfer of property, rights and liabilities of the Authority to the Pensions Regulator (“the Regulator”) on that day.

Article 1 provides for citation and interpretation.

Article 2 provides that the day appointed for the coming into force of section 10 of the Act is 6th April 2005 except in so far as any part of that provision has already been brought into force before that day. It further provides that the day appointed for the coming into force of section 272 of the Act, in so far as that section is not already in force, is 15th March 2005. Article 2 also provides that the day appointed for the coming into force of subsection (1) of section 300 of, and Schedule 2 to the Act, is 6th April 2005 (“the appointed day”). It also provides that the day appointed for the coming into force of sections 278 and 280 of the Act for the purposes of conferring power to make regulations is 15th March 2005, the day appointed for the coming into force of paragraph 21 of Schedule 1 to the Act is 15th March 2005 for the purposes of conferring power to make regulations, and 6th April 2005 for all other purposes. Article 2 also brings a repeal into force on 1st April, and gives effect to Schedule 1 which sets out various consequential amendments and repeals coming into force on 6th April 2005.

Article 3 makes provision for all property, rights and liabilities to which the Authority is entitled or subject immediately before the appointed day to transfer to the Regulator on that day, apart from property relating to the carrying out of the pension tracing service by the Authority, which transfers to the Secretary of State on the appointed day.

Article 4 modifies section 10 of the Act (functions exercisable by the Determinations Panel) by inserting a new subsection (4A) into that section. The new subsection (4A) provides that any function conferred on the Authority by section 96 or 97 of the Pensions Act 1995 (c. 26) (“the 1995 Act”) which is exercised by the Regulator on or after the appointed day is also a reserved regulatory function for the purposes of Part 1 of the Act. Section 96 of the 1995 Act makes provision in respect of the review of decisions of the Authority. Section 97 of the 1995 Act makes provision for the reference by the Authority to the court of questions of fact arising in connection with any matter under Part 1 of the 1995 Act or on an application to the Authority for a review of a determination or on a review entered into by it without an application.

Article 5 makes various transitional provisions the purpose of which is to enable the Regulator to continue dealing with any matters that were being dealt with by the Authority before the appointed day but which have not been concluded by the Authority before that day. It also enables the effect of anything done by or in relation to the Authority before the appointed day to continue on or after that day. Article 5 also provides that certain specified functions of the Authority which fall to be exercised by the Authority on or after the appointed day, or which fell to be exercised by the Authority before that day but have not been exercised, shall be exercised by the Regulator as if they were functions conferred on the Regulator under, or by virtue of, the Act. It similarly provides that in relation to one function (that of carrying out what is known as the pension tracing service) which fell to be exercised by the Authority before the appointed day but has not been exercised, or would have fallen to be exercised by it on or after the appointed day, that function shall be exercised by the Secretary of State (or a person appointed by him). Article 5 also enacts Schedule 2 which makes further transitional provisions.

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. (See end of Document for details)*

Article 6 provides that the provisions of the enactments that are specified in the table in Schedule 3 shall continue to have effect for particular purposes as in force immediately before the appointed day.

Article 7 amends the Pensions Act 2004 (Commencement No.2, Transitional Provisions and Consequential Amendments) Order 2005 (S.I. 2005/275 (C.10)), to remove an incorrect reference.

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.