

**EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES AND PENSION PROTECTION
FUND (AMENDMENT) REGULATIONS 2005**

2005 NO.993

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Board of the Pension Protection Fund (PPF) is established by section 107 of the Pensions Act 2004 (c.35) (the Act) to provide compensation for members of eligible occupational pension schemes in the event of the insolvency of the scheme's sponsoring employer and where the pension scheme is underfunded below a certain level. These regulations make amendments to the following Pension Protection Fund Regulations which have already been laid:

- The Pension Protection Fund (Compensation) Regulations 2005(**a**);
- The Pension Protection Fund (Entry Rules) Regulations 2005(**b**);
- The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005(**c**);
- The Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005(**d**);
- The Pension Protection Fund (Reviewable Ill Health Pensions) Regulations 2005(**e**); and
- The Pension Protection Fund (Valuation) Regulations 2005(**f**).

- 2.2 The regulations also amend the Occupational Pension Schemes (Employer Debt) Regulations 2005(**g**) and the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005(**h**).

a S.I. 2005/670
b S.I. 2005/590
c S.I. 2005/441
d S.I. 2005/669
e S.I. 2005/652
f S.I. 2005/672
g S.I. 2005/678
h S.I. 2005/931

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The 21 day rule will be broken as these Amending Regulations are required to come into force on 1st April 2005 to ensure that the Pension Protection Fund regulations work effectively when they come into force on the 1st and the 6th April 2005.

4. Legislative Background

4.1 The Pension Protection Fund is being established as quickly as possible to ensure that members of eligible defined benefit and hybrid occupational pension schemes whose sponsoring employer becomes insolvent leaving the pension scheme underfunded are protected by the provision of compensation.

4.2 These regulations are required to come into force on 1st April so that the existing regulations (that are being amended) will come into force as amended. However, regulation 4(a) amends the regulations providing for eligible schemes in the Pension Protection Fund (Entry Rules) Regulations 2005 which are themselves required to come into force from 1st April. Regulation 4(a) will, therefore, come into force on 1st April but immediately after regulation 2 of the Entry Rules Regulations.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Background

7.1 Since making and laying the regulations listed in 2.1 and 2.2 (referred to in this section as the “existing regulations”), various minor errors have been identified which require amending in order to make the meaning and policy intention of those regulations absolutely clear.

7.2 The Occupational Pension Schemes and Pension Protection Fund (Amendment) Regulations 2005 make the necessary amendments. These changes fall into three broad categories:

- Technical changes needed to ensure the existing regulations work as intended or to clarify the intent. For example, the regulations:
 - make amendments to the text of the existing regulations to ensure that the policy intent is met. For instance: in the Pension

Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005 a reference to “the Board” is replaced with the more accurate “Reconsideration Committee” (a sub-committee of the Board); and in the Pension Protection Fund (Entry Rules) Regulations 2005 sub-paragraphs (e) and (f) of regulation 2 have been merged so as to accurately duplicate existing provision in the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 and deliver the policy intent.

- correct inaccurate cross references to paragraphs within the existing regulations and to sections within the Act;
 - amend certain phrases in the existing regulations so that they accurately reflect the wording used in the Act; and
 - make the intention of the existing regulations clear where there is improper or missing punctuation (e.g. missing inverted commas).
- Changes to correct grammatical errors – the regulations also correct a number of grammatical errors. This includes the insertion of missing apostrophes and other minor changes. For example in regulation 13 of the Pension Protection Fund (Entry Rules) Regulations 2005 “insolvency practitioners duty” has been replaced with “insolvency practitioner’s duty”.
 - Changes to remove typographical errors – in the existing regulations there are a few typographical errors which are corrected by these regulations. For example regulation 20 of the Pension Protection Fund (Entry Rules) Regulations 2005 contains the following phrase “following a the issue” – the unnecessary “a” is removed by these regulations.

7.4 Consultation has not taken place for these regulations.

7.5 There is no need to refer to the Social Security Advisory Committee as the Pension Protection Fund is a Non-Departmental Public Body and does not provide Social Security Benefits.

8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this Instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. **Contact**

9.1 David Shaw at the Department for Work and Pensions tel: 0207 712 2464 or email: David.Shaw@dwp.gsi.gov.uk can answer any queries regarding this instrument.