

2006 No. 1690

PENSIONS

**The Pension Protection Fund (Pension Sharing) Regulations
2006**

<i>Made</i> - - - -	<i>25th June 2006</i>
<i>Laid before Parliament</i>	<i>30th June 2006</i>
<i>Coming into force</i> - -	<i>1st August 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 220, 315(2), (4) and (5) and 318(1) of the Pensions Act 2004(a).

This instrument contains regulations made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which it is made(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Pension Sharing) Regulations 2006 and shall come into force on 1st August 2006.

(2) In these Regulations—

“the 1999 Act” means the Welfare Reform and Pensions Act 1999(c);

“the 2004 Act” means the Pensions Act 2004.

Modification of the 1999 Act

2.—(1) Paragraph (2) applies in relation to any case specified in section 220(2) of the 2004 Act (pension sharing).

(2) In a case in relation to which this paragraph applies, Chapter 1 of Part 4 of the 1999 Act (pension sharing) is modified so that it applies as if—

(a) in section 27 (scope of mechanism)—

(i) after subsection (2) there were inserted—

(a) 2004 c.35. The Pensions Act 2004 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 S.I. 2006/566, and in its application to hybrid schemes by S.I. 2005/449. Section 318(1) is cited because of the meaning there given to “modifications” and “regulations”.

(b) See section 317(1) of the Pensions Act 2004 which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8). This duty does not apply where regulations are made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which the regulations are made.

(c) 1999 c.30.

“(2A) Where subsections (4) and (5) apply, a person’s shareable rights under a pension arrangement include any entitlement to PPF compensation brought within the remit of a pension sharing order or provision by virtue of those subsections.”; and

(ii) after subsection (3) there were added—

“(4) Subject to subsection (6), subsection (5) applies where a pension sharing order or provision—

(a) imposes requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility in accordance with Chapter 3 of Part 2 of the Pensions Act 2004 or Chapter 3 of Part III of the Pensions (Northern Ireland) Order 2005(a) (pension protection), and

(b) was made before the trustees or managers of the scheme received the transfer notice in relation to the scheme.

(5) A pension sharing order or provision is, from the time when the trustees or managers of the scheme receive the transfer notice, to be applied as if references in that order or provision to—

(a) the trustees or managers of the scheme were references to the Board, and

(b) any pension to which the party with pension rights is, or may be, entitled under the scheme were references to PPF compensation to which that person is, or may be, entitled in respect of the pension.

(6) Subsection (5)(b) does not apply in the case of liabilities that fall to be discharged by the Board under section 170 of the Pensions Act 2004 or article 154 of the Pensions (Northern Ireland) Order 2005 (discharge of liabilities in respect of money purchase benefits).

(7) In this section, “transfer notice” has the meaning given by section 160 of the Pensions Act 2004 or, as the case may be, article 144 of the Pensions (Northern Ireland) Order 2005 (transfer notice).”;

(b) in section 30 (cash equivalents), after subsection (2) there were added—

“(3) In the case of shareable rights to which section 27(2A) applies, the cash equivalent shall be calculated and verified in such manner as may be approved by the Board.”;

(c) in section 46(1) (interpretation of Chapter 1)—

(i) in the definition of “pension arrangement”, after paragraph (e) there were added—

“(f) the Pension Protection Fund;”;

(ii) after the definition of “personal pension scheme” there were inserted—

““PPF compensation” means compensation payable under the pension compensation provisions specified in section 162(2) of the Pensions Act 2004 or article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions);”;

(d) in Schedule 5 (pension credits: mode of discharge), after paragraph 3 (other unfunded occupational pension schemes) there were inserted—

“Pension Protection Fund: compensation

3A.—(1) This paragraph applies to a pension credit which derives from an occupational pension scheme for which the Board has assumed responsibility.

(2) The Board shall discharge its liability in respect of a pension credit in accordance with Chapter 3 of Part 2 of the Pensions Act 2004 or Chapter 3 of Part III of the Pensions (Northern Ireland) Order 2005 (pension protection).

(3) For the purposes of sub-paragraph (2)—

(a) S.I. 2005/255 (N.I.1). The Pensions (Northern Ireland) Order 2005 is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84 and in its application to multi-employer schemes by S.R. 2005 No. 91 (as amended by S.R. 2005 Nos. 194 and 357) and S.R. 2006 No. 84.

- (a) the person entitled to the pension credit is to be treated as if he had been a member of the scheme from which a pension credit to which this paragraph applies derives immediately before the assessment date in relation to that scheme, and
 - (b) the Board shall determine the PPF compensation payable to the person entitled to the pension credit in accordance with the relevant provision specified in sub-paragraph (2) from the effective date of the pension sharing order or provision on which the credit depends.
- (4) In sub-paragraph (3) “assessment date” has the meaning given by section 142(1) of the Pensions Act 2004 or, as the case may be, article 126(1) of the Pensions (Northern Ireland) Order 2005.

Pension Protection Fund: liabilities in respect of money purchase benefits

3B.—(1) This paragraph applies to a pension credit which derives from—

- (a) an occupational pension scheme for which the Board has assumed responsibility, and
- (b) any liabilities in respect of money purchase benefits under that scheme.

(2) The Board shall discharge its liability in respect of a pension credit to which this paragraph applies in accordance with regulations made under section 170(2) and (3) of the Pensions Act 2004 or article 154(2) and (3) of the Pensions (Northern Ireland) Order 2005 (discharge of liabilities in respect of money purchase benefits).”.

Modification of the 2004 Act

3.—(1) Paragraph (2) applies in relation to any case specified in section 220(1) of the 2004 Act (pension sharing).

(2) In a case in relation to which this paragraph applies, Schedule 7 to the 2004 Act (pension compensation provisions) is modified so that it applies as if, after paragraph 2, there were inserted—

“**2A.** In the case of a person in respect of whose shareable rights under a pension arrangement to which section 31 of the Welfare Reform and Pensions Act 1999 (reduction of benefit) applies, any compensation determined in accordance with this Schedule to which he may be entitled shall be reduced by the appropriate percentage, calculated in accordance with the provisions of that section, including revaluation of the pension debit in accordance with the admissible rules of the scheme.

2B. In paragraph (2A)—

“pension arrangement” has the meaning given by section 46(1) of the Welfare Reform and Pensions Act 1999;

“shareable rights” has the meaning given by section 27 of that Act, as modified by the Pension Protection Fund (Pension Sharing) Regulations 2006.”.

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

James Purnell
Minister of State,
Department for Work and Pensions

25th June 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the Board of the Pension Protection Fund (“the Board”) to discharge liability in respect of a pension sharing order or provision which has been made prior to the date the trustees or managers of a scheme receive a transfer notice under section 160 of the Pensions Act 2004 (c.35) (“the 2004 Act”) or article 144 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)), but which has either not come into effect by that date or in relation to which the liabilities of the trustees or managers have not been discharged by that date.

Regulation 2 modifies sections 27 (scope of mechanism), 30 (cash equivalents) and 46 (interpretation) of, and Schedule 5 (pension credits: mode of discharge) to, the Welfare Reform and Pensions Act 1999 (c.30) (“the 1999 Act”) to allow the Board to give effect to an order or provision which remains unimplemented.

Regulation 3 modifies Schedule 7 to the 2004 Act (pension compensation provisions) to provide that where a person’s shareable rights under a pension arrangement are subject to a pension debit, any compensation shall be subject to reduction in accordance with the provisions of section 31 of the 1999 Act.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the 2004 Act by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

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

£3.00

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E0861 6/2006 160861T 19585