

EXPLANATORY MEMORANDUM TO
THE PENSION PROTECTION FUND (ENTRY RULES) AMENDMENT
REGULATIONS 2008

2008 No. 1810

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations amend the Pension Protection Fund (Entry Rules) Regulations 2005 so that where an eligible scheme's sponsoring employer is dissolved during a Pension Protection Fund ("PPF") assessment period that scheme remains an eligible scheme for PPF purposes and may transfer into the PPF if the necessary criteria are met.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Section 126 (*Eligible schemes*) of the Pensions Act 2004 ("the Act") provides the definition of an "eligible scheme" for the purposes of the PPF. Section 132 (*Assessment periods*) of the Act provides for an assessment period during which the PPF determines whether a scheme may transfer in to the PPF.
 - 4.2 Section 126(3) of the Act provides a power to make Regulations where, after the beginning of an assessment period in relation to an eligible scheme, the scheme ceases to be an eligible scheme. The power allows the Regulations to prescribe circumstances in which the scheme shall, for the purposes of Part 2 of the Act, be treated as remaining an eligible scheme. Regulation 3 of the Pension Protection Fund (Entry Rules) Regulations 2005 ("the Entry Rules") SI 2005/590 provides that the scheme continues to be an eligible scheme in circumstances where the scheme has ceased to be a tax approved scheme, or has too few members.
5. **Territorial Extent and Application**
 - 5.1 These Regulations apply to Great Britain. Corresponding provisions will be made in Northern Ireland.

6. European Convention on Human Rights

As these Regulations are subject to the negative resolution procedure, and do not amend primary legislation, no statement is required.

7. Policy Background

7.1 In order to determine whether an eligible scheme, whose sponsoring employer has experienced an insolvency event, may transfer in to the PPF, the scheme must go through a PPF assessment period. At present, if during an assessment period a scheme's sponsoring employer is dissolved, that scheme ceases to be eligible to enter the PPF. It is possible, therefore, that for a scheme that should be able to enter the PPF, in all other circumstances except for the fact that its sponsoring employer has been dissolved, the Board of the PPF are unable to transfer the scheme into the PPF.

7.2 These Regulations amend regulation 3 of the Entry Rules, so that a scheme remains an eligible scheme if its sponsoring employer is dissolved during a PPF assessment period and may transfer into the PPF if the necessary criteria are met.

Consultation

7.3 Between 22 May 2008 and 5 June 2008, the Department for Work and Pensions (DWP) undertook a consultation exercise on a draft of these Regulations, at that time called the Pension Protection Fund (Miscellaneous Amendments) (No.2) Regulations 2008. Ministers decided that a two-week consultation was appropriate given the need for the Regulations to come into force as soon as possible. This will allow schemes whose sponsoring employer has dissolved during a PPF assessment period to transfer into the PPF without any further delay. DWP received five responses to the consultation, three of which made no comment. The two substantive comments made minor suggestions only. The Regulations were amended accordingly having considered the responses. A response to the consultation is available on the DWP website at: <http://www.dwp.gov.uk/consultations/2008/>

Guidance

7.4 DWP will have copies of the Regulations and be in a position to explain the provisions to members of the public.

Consolidation

7.5 Due to the need for these Regulations to come into force expeditiously we will not be consolidating these Regulations with other Regulations.

8. Impact

8.1 A full Impact Assessment has not been published for this instrument as it has only a negligible impact on the private and voluntary sectors.

8.2 There is no impact on the public sector.

9. Contact

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