

2010 No. 196

PENSIONS

The Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2010

<i>Made</i>	- - - -	<i>2nd February 2010</i>
<i>Laid before Parliament</i>		<i>8th February 2010</i>
<i>Coming into force</i>	- -	<i>8th March 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 126(1)(b), 146(1), 181(5), 182(5), 185(4)(a), 189(1), (4), (6) and (11), 203(1), 307(3), 315(2) and 318(1) of the Pensions Act 2004(a).

In accordance with section 317 of the Pensions Act 2004 the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2010 and shall come into force on 8th March 2010.

Amendment of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005

2.—(1) The Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005(b) are amended in accordance with this regulation.

(2) In regulation 1(2) (interpretation)—

(a) at the end of the definition of “partially guaranteed scheme” omit “and”, and

(b) after the definition of “partially guaranteed scheme” insert—

““secured part” means any part of a partially guaranteed scheme which is not an unsecured part;

“the Treaty” means the Treaty on the Functioning of the European Union(c); and”.

(3) In regulation 2 (modification of Part 2 of the Act)—

(a) regulation 2 becomes paragraph (1) of that regulation,

(b) in paragraph (1), after “modifications prescribed in” substitute “regulations 3 to 11.” for “these Regulations.”, and

(a) 2004 c.35. Section 318(1) is cited because of the meaning it gives to “prescribed” and “regulations”.

(b) S.I. 2005/277; there are no amendments to these Regulations.

(c) OJ No C115, 9.5.2008. p 47

(c) after paragraph (1) insert—

“(2) Paragraph (1) shall not apply where it would give rise to State aid that is incompatible with the internal market within the meaning of Article 107 of the Treaty.

(3) Regulations 2A (schemes to which paragraph (1) of regulation 2 does not apply) and 11 (general interpretation) shall apply where paragraph (1) does not apply to a partially guaranteed scheme by virtue of paragraph (2).”.

(4) After regulation 2 insert—

“Schemes to which paragraph (1) of regulation 2 does not apply

2A.—(1) This regulation applies to a partially guaranteed scheme to which paragraph (1) of regulation 2 does not apply by virtue of paragraph (2) of that regulation.

(2) Part 2 of the Act shall apply to a scheme referred to in paragraph (1) as if the unsecured part and the secured part of the scheme were separate schemes.

(3) Each part of the scheme referred to in paragraph (1) is an eligible scheme within the meaning of section 126(1) of the Act (eligible schemes) for the purposes of Part 2 of the Act”.

(5) In regulation 3 (application and effect), after paragraph (4) insert—

“(5) Section 175(2)(a)(i) of the Act (pension protection levies) applies as if, for “a scheme’s assets” there were substituted “the assets of the unsecured part of a scheme”.”.

Amendment of the Pension Protection Fund (Entry Rules) Regulations 2005

3.—(1) The Pension Protection Fund (Entry Rules) Regulations 2005(a) are amended in accordance with this regulation.

(2) In regulation 2 (schemes which are not eligible schemes)—

(a) after paragraph (1) insert—

“(1A) Paragraph (1)(d) shall not apply where it would give rise to State aid that is incompatible with the internal market within the meaning of Article 107 of the Treaty.”, and

(b) for paragraph (8) substitute—

“(8) In this regulation—

“PPF Ombudsman” has the meaning given in section 209 of the Act (the Ombudsman for the Board of the Pension Protection Fund); and

“the Treaty” means the Treaty on the Functioning of the European Union.”.

(3) In regulation 21 (refusal to assume responsibility – schemes which become eligible schemes) after paragraph (2), insert—

“(3) This regulation shall not apply where either—

(a) regulation 2(1A) (schemes which are not eligible schemes) of these Regulations; or

(b) regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply),

applies to a scheme.”.

(a) S.I. 2005/590, to which there are amendments not relevant to these Regulations.

Amendment of the Pension Protection Fund (Reviewable Matters) Regulations 2005

4. In regulation 3 of the Pension Protection Fund (Reviewable Matters) Regulations 2005(a) (modification of Schedule 9 to the Act)—

- (a) regulation 3 becomes paragraph (1) of that regulation, and
- (b) after paragraph (1) insert—

“(2) Paragraph (1) shall not apply where regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply) applies to a scheme.”.

Amendment of the Pension Protection Fund (Provision of Information) Regulations 2005

5. In Schedule 2 to the Pension Protection Fund (Provision of Information) Regulations 2005(b) (information to be provided by trustees or managers), after paragraph (1) insert—

“(1A) A partially guaranteed scheme to which regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply) applies shall not be treated as a partially guaranteed scheme for the purposes of this Schedule.”.

Amendment of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005

6.—(1) The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005(c) are amended in accordance with this regulation.

(2) In regulation 5 (applications for fraud compensation payments)—

- (a) at the beginning of paragraph (5)(b) insert “except where paragraph (6) applies,”, and
- (b) after paragraph (5) insert—

“(6) This paragraph applies to a scheme to which regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply) applies.”.

(3) In regulation 7 (amount of fraud compensation)—

- (a) at the beginning of paragraph (5)(b) insert “except where paragraph (6) applies,”, and
- (b) after paragraph (5) insert—

“(6) This paragraph applies to a scheme to which regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply) applies.”.

(4) In regulation 11 (partially guaranteed schemes), at the beginning of paragraph (1) insert

“Except where a partially guaranteed scheme is a scheme to which regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply) applies,”.

Amendment of the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006

7. In regulation 9 of the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006(d) (partially guaranteed schemes)—

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- (a) S.I. 2005/600, to which there are amendments not relevant to these Regulations.
 - (b) S.I. 2005/674, to which there are amendments not relevant to these Regulations.
 - (c) S.I. 2005/2184, to which there are amendments not relevant to these Regulations.
 - (d) S.I. 2006/558; to which there are amendments not relevant to these Regulations.

- (a) at the beginning of paragraph (1) insert “Except where paragraph (3) applies,” and
- (b) after paragraph (2) insert—
 - “(3) This paragraph applies where regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply) applies to a scheme.”.

Amendment of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006

8. In regulation 20 of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006(a) (schemes that are eligible schemes for part of a financial year)—

- (a) the provisions of regulation 20 become paragraph (1) of that regulation, and
 - (b) after paragraph (1) insert—
 - “(2) Where a scheme—
 - (a) is not an eligible scheme on the first day of a financial year; and
 - (b) becomes an eligible scheme during that financial year by virtue of—
 - (i) regulation 2(1A) of the Pension Protection Fund (Entry Rules) Regulations 2005 (schemes which are not eligible schemes), or
 - (ii) regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (schemes to which paragraph (1) of regulation 2 does not apply),
- section 181(5) of the Act does not apply to the scheme and the full amount of the levy is payable.”.

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

William D. McKenzie
Parliamentary Under-Secretary of State
Department for Work and Pensions

2nd February 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations principally implement the Decision of the European Commission 55/2007/EC of 11th February 2009 (O.J. L242, 15.9.09. p.21) that the exemption from the payment of a levy to the Pension Protection Fund (PPF) corresponding to the pension liabilities covered by a Crown guarantee constitutes State aid that is incompatible with the common market within the meaning of Article 87(1) of the EC Treaty, now Article 107 of the Treaty on the Functioning of the European Union.

Regulation 2 amends the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (S.I. 2005/277) which modify Part 2 of the Pensions Act 2004 (“the Act”) as it applies to occupational pension schemes with a partial Crown guarantee (partially guaranteed schemes).

Regulation 3 amends regulation 2 of the Pension Protection Fund (Entry Rules) Regulations 2005 (S.I. 2005/590), which sets out those schemes which are not “eligible schemes” for the purposes of Part 2 of the Act.

(a) S.I. 2006/580, to which there are amendments not relevant to these Regulations.

Regulations 4, 5, 6 and 7 make amendments respectively to the Pension Protection Fund (Reviewable Matters) Regulations 2005 (S.I. 2005/600), the Pension Protection Fund (Provision of Information) Regulations 2005 (S.I.2005/674), the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2184) and the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006 (S.I. 2006/558), as they apply to partially guaranteed schemes, that are consequential to the amendments in regulation 2.

Regulation 8 amends the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 (S.I. 2006/580) as they apply to schemes that are eligible for PPF compensation for part of a financial year.

A full impact assessment has not been published for this instrument as it has only a negligible impact on the private, public and voluntary sectors.

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STATUTORY INSTRUMENTS

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