

2010 No. 483

PENSIONS

The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) (Amendment) Regulations 2010

<i>Made</i> - - - -	<i>25th February 2010</i>
<i>Laid before Parliament</i>	<i>4th March 2010</i>
<i>Coming into force</i> - -	<i>6th April 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 187(8), 315(2) and 318(1) of the Pensions Act 2004(a).

By virtue of section 317(2) of that Act, the Secretary of State is not required to consult any person before making these Regulations as the Regulations are contained in a statutory instrument made before the end of the period of six months beginning with the coming into force of the provision of the Act by virtue of which the Regulations are made(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) (Amendment) Regulations 2010 and shall come into force on 6th April 2010.

(2) In these Regulations “the principal Regulations” means the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005(c).

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(3) of the principal Regulations (citation, commencement and interpretation) after the definition of “stakeholder pension scheme” insert—

““transfer notice” is to be construed in accordance with section 160 (transfer notice);

“transfer payment” means a fraud compensation transfer payment made under section 187(2) (Board’s powers to make fraud compensation transfer payments);”.

Board’s powers to make fraud compensation transfer payments

3. After regulation 8 of the principal Regulations (interim payments), insert—

(a) 2004 c.35; section 318(1) is cited because of the meaning it gives to “regulations”.
(b) In accordance with S.I. 2010/443 (C.30), the appointed day for the coming into force of section 187 of the Pensions Act 2004 for the purpose of conferring power to make regulations is 25th February 2010 and for all other purposes on 6th April 2010.
(c) S.I. 2005/2184; the relevant amending instrument is S.I. 2007/814.

“Amount of fraud compensation transfer payment

8A.—(1) For the purpose of section 187(8) (determination of amount of fraud compensation transfer payment) and subject to section 187(7) (maximum payments) the amount of any transfer payment shall be calculated in accordance with this regulation.

(2) Subject to paragraph (4), the amount of the transfer payment shall be calculated in accordance with the formula $P - Q$ where—

- (a) P is—
 - (i) the value of the assets of the scheme—
 - (aa) as stated in the PPF valuation which immediately precedes the loss; and
 - (bb) adjusted by the relevant person to take account of any alterations in their value between the date which immediately precedes the loss and the date of the transfer notice;
 - (ii) if there is no such PPF valuation, the value of the assets of the scheme—
 - (aa) on such date as immediately precedes the loss;
 - (bb) as reported by an accountant; and
 - (cc) adjusted by an accountant so as to take account of any alterations in their value between the date which immediately precedes the loss and the date of the transfer notice; and
- (b) Q is the value of the assets of the scheme immediately before the date of the transfer notice, as reported by an accountant.

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

- (a) any adjustments made to take account of alterations in the value of the assets of the scheme shall—
 - (i) include alterations resulting from—
 - (aa) investment gains and losses;
 - (bb) payments made and received by the scheme, in accordance with the rules of the scheme; and
 - (ii) not include alterations resulting from the loss;
- (b) a relevant person is a person with the qualifications or experience prescribed by regulations made under, or a person approved by the Secretary of State under, section 143(11)(a)(ii) (valuation of assets and protected liabilities).

(4) In the case of—

- (a) a section of a segregated scheme or a segregated part, paragraph (2) shall apply to the assets of the section or part to which the transfer notice related;
- (b) except where paragraph (5) applies, an unsecured part of a partially guaranteed scheme, paragraph (2) shall apply to the assets of the unsecured part to which the transfer notice related.

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

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

25th February 2010

Angela Eagle
Minister of State,
Department for Work and Pensions

(a) S.I. 2005/277, regulation 2A was inserted by S.I. 2010/196.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2184) (the “principal Regulations”).

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 amends regulation 1(3) of the Principal Regulations by inserting a definition of “transfer notice” and of “transfer payment”.

Regulation 3 further amends the Principal Regulations by inserting, after regulation 8, a new regulation 8A. Regulation 8A sets out how the Board of the Pension Protection Fund (the “Board”) is to calculate fraud compensation transfer payments (a “transfer payment”).

In essence, a transfer payment is to amount to the difference between the value of an eligible pension scheme’s assets immediately preceding the loss which the transfer payment is designed to compensate, and the value of those assets immediately preceding the issue of the transfer notice (a transfer notice is a notice by which the Board assumes responsibility for an eligible pension scheme under Part 2 of the Pensions Act 2004 (c.35)). The amount of the transfer payment (or if there is more than one, the aggregate) is not to exceed the amount specified in section 187(7) of the Pensions Act 2004.

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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