

2010 No. 32

PENSIONS

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

Made - - - - *15th February 2010*

Coming into operation - *8th March 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 110(1)(b), 130(1), 164(5), 165(5), 168(4)(a), 171(1), (4), (6) and (11), 185(1) and 280(3) of the Pensions (Northern Ireland) Order 2005(a).

Citation and commencement

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

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

2.—(1) The Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005(b) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of “partially guaranteed scheme” add—
““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).”.

(3) In regulation 2 (modification of Part III of the Order)—

(a) the provisions of the regulation shall become paragraph (1) of the regulation;

(b) in paragraph (1) for “these Regulations” substitute “regulations 3 to 11”;

(c) after paragraph (1) add—

“(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 and 11 shall apply where paragraph (1) does not apply to a partially guaranteed scheme by virtue of paragraph (2).”.

(a) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes, hybrid schemes and multi-employer schemes by, respectively, S.R. 2005 Nos. 55, 84 and 91 (as amended by S.R. 2005 Nos. 194 and 357 and S.R. 2008 No. 132)

(b) S.R. 2005 No. 55

(c) O.J. No. C115, 9.5.08, p.47

(4) After regulation 2 insert—

“Schemes to which regulation 2(1) 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 III of the Order (the Board of the Pension Protection Fund) 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 Article 110(1) for the purposes of Part III of the Order.”.

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

“(5) Article 158(2)(a)(i) (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

3.—(1) The Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (schemes which are not eligible schemes) 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 on the Functioning of the European Union.”.

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

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

(a) regulation 2(1A) of these Regulations, or

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

applies to a scheme.”.

Amendment of the Pension Protection Fund (Reviewable Matters) Regulations

4. In regulation 3 of the Pension Protection Fund (Reviewable Matters) Regulations (Northern Ireland) 2005(b) (modification of Schedule 8)—

(a) the provisions of the regulation shall become paragraph (1) of the regulation;

(b) after paragraph (1) add—

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

(a) S.R. 2005 No. 126 to which there are amendments not relevant to these Regulations

(b) S.R. 2005 No. 127

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

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

“(1A) A partially guaranteed scheme to which regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005 (schemes to which regulation 2(1) 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

6.—(1) The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005(b) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of “partially guaranteed scheme” insert—

“the Partially Guaranteed Schemes Regulations” means the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005;”.

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

(a) in paragraph (5)(b) at the beginning insert “except where paragraph (6) applies,”;

(b) after paragraph (5) add—

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

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

(a) in paragraph (5)(b) at the beginning insert “except where paragraph (6) applies,”;

(b) after paragraph (5) add—

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

(5) In regulation 11 (partially guaranteed schemes) for “The fraud compensation” substitute “Except where a partially guaranteed scheme is a scheme to which regulation 2A of the Partially Guaranteed Schemes Regulations (schemes to which regulation 2(1) does not apply) applies, the fraud compensation”.

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

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

(a) in paragraph (1) for “This regulation” substitute “Except where paragraph (3) applies, this regulation”;

(b) after paragraph (2) add—

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

(a) S.R. 2005 No. 129 to which there are amendments not relevant to these Regulations
(b) S.R. 2005 No. 381 to which there are amendments not relevant to these Regulations
(c) S.R. 2006 No. 85

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

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

- (a) the provisions of the regulation shall become paragraph (1) of the regulation;
- (b) after paragraph (1) add—
 - “(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 (Northern Ireland) 2005 (schemes which are not eligible schemes), or
 - (ii) regulation 2A of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations (Northern Ireland) 2005 (schemes to which regulation 2(1) does not apply),

Article 164(5) of the Order does not apply to that scheme and the full amount of the levy is payable.”.

Sealed with the Official Seal of the Department for Social Development on 15th February 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations principally implement the decision of the Commission of the European Communities No. C 55/2007 of 11th February 2009 (O.J. No. L242, 15.9.09, p.21) that the exemption from the payment of a levy to the Pension Protection Fund 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 of the Treaty establishing the European Community (O.J. No. C115, 24.12.02, p.33), 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 (Northern Ireland) 2005 which modify Part III of the Pensions (Northern Ireland) Order 2005 (“the Order”) as it applies to occupational pension schemes with a partial guarantee from a relevant public authority (“partially guaranteed schemes”).

Regulation 3 amends regulation 2 of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 which sets out those schemes which are not eligible schemes for the purposes of Part III of the Order.

Regulations 4, 5, 6 and 7 amend respectively the Pension Protection Fund (Reviewable Matters) Regulations (Northern Ireland) 2005, the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005, the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and the Occupational Pension Schemes (Fraud Compensation Levy) Regulations (Northern Ireland) 2006, as they apply to partially guaranteed schemes, in consequence of the amendments made by regulation 2.

Regulation 8 amends the Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006 as they apply to schemes which are eligible for Pension Protection Fund compensation for part of a financial year.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

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