

*Draft Regulations laid before Parliament under section 186(2) of the Pension Schemes Act 1993 and section 175(2) of the Pensions Act 1995 for approval by resolution of each House of Parliament*

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DRAFT STATUTORY INSTRUMENTS

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**2000 No.**

**PENSIONS**

**The Occupational and Personal Pension  
Schemes (Penalties) Regulations 2000**

*Made* - - - - 2000  
*Coming into force* - - 3rd April 2000

Whereas a draft of these Regulations was laid before Parliament in accordance with the provisions of section 186(3) of the Pension Schemes Act 1993<sup>(1)</sup> and section 175(2) of the Pensions Act 1995<sup>(2)</sup> and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred on him by sections 6(5), 168(1), (2) and (4), 181(1), 182(3), 183(1) and 185(1) of the Pension Schemes Act 1993<sup>(3)</sup> and by sections 3(2), 10(3), 41(1), 116(1), 124(1) and 174(3) of the Pensions Act 1995<sup>(4)</sup>, and of all other powers enabling him in that behalf, having consulted with such persons as he considered appropriate<sup>(5)</sup>, hereby makes the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Penalties) Regulations 2000 and shall come into force on 3rd April 2000.

(2) In these Regulations—

“Audited Accounts Regulations” means the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996<sup>(6)</sup>; and

“Register Regulations” means the Register of Occupational and Personal Pension Schemes Regulations 1997<sup>(7)</sup>.

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(1) 1993 c. 48.  
(2) 1995 c. 26  
(3) 1993 c. 48. Section 168 was substituted by section 155(1) of the Pensions Act 1995. Section 181(1) is cited for the meaning given to “prescribed” and “regulations”.  
(4) 1995 c. 26. Section 124(1) is cited for the meaning given to “prescribed” and “regulations”.  
(5) See section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995 for the requirement to consult.  
(6) S.I.1996/1975, to which there are amendments not relevant to these Regulations.  
(7) S.I. 1997/371, as amended by S.I. 1997/1405 and S.I. 1998/600.

### **Amendment to regulation 2(3) of the Audited Accounts Regulations**

2. For paragraph (3) of regulation 2 of the Audited Accounts Regulations there shall be substituted the following paragraphs—

“(3) Where the trustees or managers of a scheme have failed without reasonable excuse to take all such steps as are necessary to secure compliance with either the requirement to obtain accounts audited by the auditor of the scheme or the requirement to obtain an auditor’s statement about contributions to the scheme in accordance with paragraph (1)(a) or (b), they shall be liable to pay to the Occupational Pensions Regulatory Authority, within 28 days from the date of its imposition, a penalty not exceeding—

- (a) £5,000 in the case of an individual; and
- (b) £50,000 in any other case.

(4) Section 3 of the Pensions Act 1995 shall apply to a trustee of a scheme in respect of any failure by that trustee to comply with the requirements of paragraph (1)(a) or (b).”.

### **Amendments to regulation 7 of the Register Regulations**

3.—(1) In regulation 7(1) of the Register Regulations, for the words “fails to comply with any duty imposed under regulation 4(1), 5, 8(2) or (3)” there shall be substituted the words “fails to comply with the duty imposed under regulation 8(2)”.

(2) In regulation 7(2) of the Register Regulations, before the words “fails to comply with the condition specified in regulation 6(5)” there shall be inserted the words “fails to comply with any duty imposed under regulation 4(1), 5 or 8(3) or”.

Signed by authority of the Secretary of State for Social Security.

2000

Minister of State,  
Department of Social Security

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the Pension Schemes Act 1993 and the Pensions Act 1995.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 amends regulation 2(3) of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 so as to apply a civil penalty under section 10 of the Pensions Act 1995 (power of the Occupational Pensions Regulatory Authority to impose civil penalties), instead of a criminal penalty, in respect of any failure to comply with the requirement to obtain accounts audited by the auditor of the scheme or a statement from the auditor about contributions to the scheme, and also to insert a new regulation 2(4) into those Regulations under which the trustees of the scheme are liable to the imposition of a prohibition order under section 3 of the Pensions Act 1995 in respect of any failure to which the new regulation 2(3) applies.

Regulation 3 amends regulation 7 of the Register of Occupational and Personal Pension Schemes Regulations 1997 so as to provide that, for the future, a breach of the requirements imposed by regulation 4(1), 5 or 8(3) of those Regulations renders the trustees or managers of the scheme liable to the imposition of a civil penalty by the Occupational Pensions Regulatory Authority instead of a criminal penalty.

These Regulations do not impose any costs on business.