

**EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES
(EEA STATES)
REGULATIONS 2007**

2007 No. 3014

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 1.1 This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**
- 2.1 In order to take account of the adoption of the EU Directive on the activities and supervision of institutions for occupational retirement provision (Directive 2003/41/EC) (otherwise known as the IORP Directive) by the other European Economic Area (EEA) States (Norway, Iceland and Liechtenstein), it is necessary to amend certain UK pensions legislation. These Regulations seek to amend the appropriate GB legislation.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

Timing of the Regulations

- 3.1 The JCSI will note that the IORP Directive was incorporated into the EEA Agreement on 7 July 2006 but its provisions were not fully implemented in the other EEA States until 12 April 2007. EU rules require Member States to take account of this change from the latter date. Whilst UK legislation should have been amended from 12 April 2007, action to ensure that the appropriate legislation was amended could only begin once notification was received that full implementation had been completed in the other EEA States.
- 3.2 It has therefore been necessary to delay the amendment of legislation in order to:
 - Determine which legislation should be amended
 - Carry out an extensive consultation on these Regulations
 - Provide sufficient time for the appropriate Parliamentary procedures.
- 3.3 The Regulations will therefore come into force on 26 November in order to take account of these actions.
- 3.4 Regulations which impact on business should normally come into force on either 6 April or 1 October (the two recognised common commencement dates). A departure from these dates is permitted, however, for Regulations which implement requirements arising from European legislation.

Consultation

- 3.5 The IORP Directive provides for Occupational Pension Schemes based in one Member State to be sponsored by employers located in the EU States. Given that, through the other EEA states' adoption of the Directive, it will now provide for Occupational Pension Schemes based in one Member State to be sponsored by employers located in all the EEA States, there was concern that there might be schemes established in the UK who are already being sponsored solely by employers based in Norway, Iceland or Liechtenstein. These schemes would require special consideration in view of the need to amend certain cross-border legislation (The Occupational Pensions (Cross-border Activities) Regulations 2005, SI 2005/3381). However, **none of the responses to the consultation indicated any existence of such schemes.**
- 3.6 The other responses to the consultation raised minor issues. An outline of the other responses to the consultation and how they have been taken into account is attached at **Annex A.**

4. Legislative Background

- 4.1 The IORP Directive provides a framework for the operation and supervision of occupational pension schemes. The Directive applies to funded occupational pension schemes whereas State schemes, personal pensions and certain other types of scheme are outside its scope. Its provisions were introduced in GB between September 2005 and July 2006 through the Pensions Act 2004 and associated regulations.
- 4.2 On account of the adoption of the IORP Directive by the other EEA States, the UK, as an EU Member State, is required to amend the legislation implementing the IORP Directive, and other relevant legislation, in order to place the other EEA States, relative to that legislation, in the same position as other EU Member States. For example, where existing legislation allows schemes based in the UK to be sponsored by employers based in other EU States, this legislation will be extended so that UK based schemes will be able to accept sponsorship from employers based in any of the EEA States.
- 4.3 A consequence of the implementation of the IORP Directive in the UK was a change in the definition of "occupational pension scheme". Any scheme based in another EU State, as it became subject to the IORP framework and supervision by the competent authority in that Member State, became known as a "European pensions institution". Through the adoption of IORP by the other EEA States, schemes based in any of the other EEA States will also become "European pensions institutions". The definition of "occupational pension scheme" will therefore only apply to schemes based in the UK or outside the EEA States.
- 4.4 A transposition note and brief scrutiny history is attached at **Annex B.**

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 The Minister of State for Pensions Reform has made the following statement regarding Human Rights: In my view the provisions of the Occupational Pension Schemes (EEA states) Regulations 2007 are compatible with the Convention rights.

7. Policy Background

7.1 The IORP Directive is an important element of the Financial Services Action Plan and represents a first step towards a single market for occupational retirement provision. It provides a framework for the operation and supervision of occupational pension schemes in the EU. This framework is now being extended to the other EEA States.

7.2 **Its provisions are now well established in UK law, the intention therefore of these Regulations is merely to ensure that the existing legislation which introduced its requirements is extended to take account of the other EEA States, rather than to introduce any significant policy changes to these areas. The Regulations also include some consequential changes to domestic legislation to ensure parity of treatment between schemes operating in the EU and those operating in the other EEA States which have recently implemented IORP.**

8. Impact

8.1 The extension of the IORP Directive could potentially impact on any UK based schemes (cross-border schemes) that are currently being sponsored solely by employers based in the other EEA States (Norway, Iceland or Liechtenstein). However, a regulatory impact assessment has not been prepared for this instrument given that DWP research indicates that there are no schemes who are currently being sponsored solely by an employer in Norway, Iceland and Liechtenstein (any UK based scheme that was already being sponsored by a scheme based in one of these States and a EU Member State would already need to comply with existing Cross-border legislation). The consultation, as noted at paragraph 3.5, failed to establish that any such schemes existed.

8.2 The impact on the public sector is Nil.

9. Contact

Richard Jordan at the Department for Work and Pensions, Tel: 0207-962-8201 or e-mail: Richard.jordan1@dwpgsi.gov.uk can answer any queries regarding the instrument.

Consultation

The Government consulted on the draft regulations between 31 July and 24 September. In all, 5 written submissions were made to the consultation. The responses to the consultation, in general, welcomed the regulations. The comments received were minor and concerned as follows:

- The title of the Regulations, whether it was necessary to include “personal” in the title, as the Regulations would not impact on personal schemes in any way. We agreed with this suggestion and deleted the reference in the title to “personal”.
- Whether the amended definition of “deposit-taker” referring to Bank of England or other central EU bank was restrictive. This was a misinterpretation by the respondent and it was explained that no such restriction was in place, other possibilities existed.
- It was suggested that a further piece of legislation should be amended: The Welfare Reform and Pensions Act 1999, Schedule 5, para 6(2), amending the reference to “Member States” to “EEA states”. This concerns the manner in which a scheme may discharge its liability in respect of a pension credit. The Government agree that the same principles apply to this proposed amendment as to amendments already included in the Regulations in respect of the manner in which a scheme may discharge its contracted-out benefits liability (Pensions Scheme Act 1993, section 19(4)(a)(i); namely that an annuity contract or policy of insurance may be taken out with an insurer carrying out long term business in the UK or another EEA State (formerly EU State). Hence the suggested amendment has been added to the Regulations.
- There was concern at the growing gap between HMRC and DWP legislation with DWP referring to “EEA states” and HMRC “Member States”. We explained that we would suggest to HMRC that amendments to their legislation might also now be required on account of the adoption of the IORP Directive by the EEA States.

Transposition Note

The Occupational Pension Schemes (EEA States) Regulations 2007

These Regulations do what is necessary to implement the parts of the European Union Directive 2003/41/EC on the Activities and Supervision of Institutions for Occupational Retirement Provision (IORP Directive) which require extension in their application to the other EEA States¹ on account of the adoption of that Directive by those States. This includes making consequential changes to domestic legislation to ensure its coherence to the area in which they apply.

Article	Requirements	Implementation	Responsibility
6	<p>Definitions</p> <p>The Directive required a new definition of “occupational pension scheme” on account of the fact that, through the Directive, each Member State’s supervisory authority would become responsible for the “institutions for occupational retirement provision” referred to in Article 6 (a) within its borders (Article 14 refers below)</p>	<p>Regulation 2 and paragraphs (1)(1)(a) and 6 of the Schedule</p> <p>The UK’s definition (provided in section 1 of the Pension Schemes Act 1993, and the Categories Regulations²) applies to schemes established in the UK or <u>outside the EU</u>. This legislation is being amended so that the new definition will apply to schemes based in the UK or <u>outside the EEA States</u>. Schemes established outside the UK but in an EEA State are defined as “European pensions institutions” and governed under IORP by the State they are established in, see below.</p> <p>Regulation 4(g)(iv)</p> <p>The definition of European pensions institution provided by section 293(8) of the Pensions Act 2004 has, as a consequence of the new</p>	<p>The Secretary of State and the Northern Ireland Executive</p>

¹ The other EEA States refers to: Norway, Iceland or Liechtenstein

² The SI number for the Occupational Pension Schemes (Categories) Regulations 2005 is (SI Number 2005/2401)

³ SI 2006/349

Article	Requirements	Implementation	Responsibility
6		<p>definition of occupational pension scheme, been amended to refer to “an institution for occupational retirement provision, as defined by Article 6(a) of the Directive, that has its main administration <u>in an EEA State</u> other than the United Kingdom.”</p> <p>Regulation 2 and Paragraphs 4 and 5 of the Schedule As a consequence of the change in the definitions of “occupational pension scheme” and “European pensions institution” mentioned above, the definition of “overseas scheme” has been amended so that this means either an occupational pension scheme with its main administration <u>outside the EEA States</u>, or a European pensions institution. The amendment is not required in order to implement IORP but is consequential to the amendment to the definition of a “European pensions institution”</p> <p>Regulation 2 and Paragraph 9 of the Schedule Regulation 4(1)(e) of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendments) Regulations 2006³ currently excludes employers in relation to unregistered occupational pension schemes based outside the Member States from the requirement to consult affected members on changes to the scheme in question. On account of the other EEA states adoption of IORP this legislation will be amended so that only employers in relation to unregistered occupational pension schemes based <u>outside the EEA</u> will be excluded from the member consultation requirement.</p>	
9(5)	Requirement for Member States to ensure that conditions of operation for cross-border activity shall be subject to authorisation by	<p>Regulation 4(c) and 5(3) Implemented by provisions in sections 287(2) and 288 of the Pensions Act 2004, which require the trustees or managers of the scheme to</p>	The Secretary of State and the Northern Ireland Executive

Article	Requirements	Implementation	Responsibility
9(5)	competent authorities	acquire authorisation from the Pensions Regulator before they can receive contributions from a “European Employer”. The definition of “European employer” and “host Member State” in section 287(6) of the Pensions Act 2004 are amended by way of amendment to Regulation 3 of the Occupational Pension Schemes (Cross-border Activities) Regulations ⁴ (“the Cross-border regulations”) so that contributions from employers based in the other EEA States also require authorisation from the Pensions Regulator. The amendment is also relevant to the implementation of Article 20 on cross-border activity – see later.	
14	<p>Powers of intervention and duties of the competent authorities.</p> <p>1. The competent authorities shall require every institution located in their territories to have sound administrative and accounting procedures and adequate internal control mechanisms.</p>	<p>Regulation 4(a) and (b)</p> <p>The Directive, requires each Member State’s supervisory authority to be responsible for the “institutions for occupational retirement provision” referred to in Article 6 (a) located within its borders and therefore UK legislation must not regulate a scheme based in another EEA State</p> <p>GB legislation (section 253(1) and (6) and section 254(1) of the Pensions Act 2004) requires that any scheme which is not subject to the provisions of the Directive must be established under irrevocable trust and that a trustee (or nominee) of the scheme must be resident in the UK. As the other EEA States are now subject to the provisions of the Directive, the requirement that schemes must be established under irrevocable trust and that a trustee (or nominee) of the scheme must be resident in the UK will only apply to schemes based outside the EEA States. References to “the member States” in Sections 253(1) and (6) and Section 254(1) are therefore substituted with references to “the EEA states”.</p>	The Secretary of State and the Northern Ireland Executive

⁴ SI 2005/3381

Article	Requirements	Implementation	Responsibility
14	<p>4) The competent authority may prohibit or restrict the activities of an institution located in their territories if:</p> <p>d) in the case of cross-border activity, the institution does not respect the requirements of social and labour law of the host MS relevant to the field of occupational pensions.</p>	<p>Regulation 2 and paragraph 3 of the Schedule The Occupational Pension Schemes (Contracting out) Regulations⁵ defines an “overseas scheme” as one that is outside the Member States. To ensure parity between the security of the contracted-out rights in a UK-based scheme and one based overseas, we have in the past required overseas schemes to meet additional conditions before they can contract-out, as, by definition, they were not subject to our regulatory regime. Schemes based in the Member States are now covered by IORP. Therefore, the extra rules no longer had to be applied to these schemes. The definition was accordingly, amended. Through the adoption of the IORP Directive by the other EEA States, these states will also be subject to IORP, hence the definition of “overseas scheme” has been amended to mean an occupational pension scheme which has its main administration <u>outside the EEA States</u>.</p> <p>Regulation 5 (5) Regulation 13 of the Cross-border regulations enables the Pensions Regulator to revoke authorisation and approval to operate cross-border of any schemes which fail to comply with the social and labour law of the host Member State. (These powers are provided for under section 289(4) of the Pensions Act 2004 – revocation of approval). The amendment allows this power to be extended to situations where schemes fail to comply with the social and labour law of the host <u>EEA</u> State.</p>	

⁵ SI 1996/1172

⁶ SI 2005/3377

Article	Requirements	Implementation	Responsibility
15	<p>Technical provisions</p> <p>1) requirement to ensure that institutions match their financial commitments</p> <p>2) requirement to ensure that institutions establish sufficient technical provisions</p> <p>3) technical provisions shall be calculated annually, or triennially if the institution provides certification/a report of adjustments for the intervening years</p> <p>4) technical provisions calculations shall be executed and certified by an actuary (or similar) according to the following principles:</p> <p>a) the minimum amount of technical provisions shall be calculated by a sufficiently prudent actuarial valuation.</p> <p>b) the maximum rates of interest shall be chosen prudently.</p> <p>c) the biometric tables shall be based on prudent principles.</p> <p>d) the method and basis of calculation shall remain constant.</p>	<p>Regulation 2 and Paragraph 7 of the Schedule</p> <p>Part 3 of the Pensions Act 2004 and the Occupational Pension Schemes (Scheme Funding) Regulations 2005⁶ were used to implement Article 15 of the Directive. Where schemes have different sections of the scheme for members in employment outside the EU, those sections of the schemes are exempt from Part 3.</p> <p>The amendments to these sections of the Scheme Funding Regulations provide that on account of the adoption of the Directive by the other EEA States:</p> <p>(i) Where a scheme is based in the UK the section or part of the scheme which is applicable to members employed outside the EU is exempt from Part 3 of the Pensions Act 2004. This exemption will now refer to members employed outside the EEA.</p> <p>(ii) Where a scheme is based outside the Member States the section or part of the scheme applicable to members employed outside the UK is exempt from Part 3 of the Pensions Act 2004. This exemption will now apply to schemes based outside the EEA..</p>	<p>The Secretary of State and the Northern Ireland Executive</p>

Article	Requirements	Implementation	Responsibility
17	<p>Requirement to hold Regulatory own funds</p> <p>1) requirement for a specific type of institution to hold regulatory own funds</p> <p>2) requirement to apply rules laid down in Articles 27 and 28 of directive 2002/83/EC when calculating the minimum amount of additional assets.</p>	<p>Regulation 2 and Paragraph 8 of the Schedule</p> <p>The Regulatory Own Funds Regulations⁷ require institutions described in Article 17 to hold additional assets to serve as a buffer, and to base the calculation on rules laid down in Articles 27 and 28 of Directive 2002/83/EC. The current Regulations provide that where a scheme is based in the UK, the part or section of the scheme which is applicable to members outside the EU is not required to comply with the Regulatory own funds requirement, this exemption will now refer to members based outside the EEA.</p>	The Secretary of State and the Northern Ireland Executive
19	<p>Management and custody</p> <p>2) requirement not to restrict institutions from appointing custodians established in another MS who are authorised, or accepted as a depositary</p> <p>This shall not prevent the home MS from making appointment of a depositary or custodian compulsory</p>	<p>Regulation 3</p> <p>Whilst the UK currently does not impose a restriction on custodians being appointed in other Member States, this permission does not extend as far as the other EEA States. As a consequence of the other EEA States adoption of the Directive, it has therefore been necessary to amend section 49 (8A)(c) of the Pensions Act 1995 to permit custodians to be appointed in other EEA States.</p> <p>Regulation 2 and Paragraph 1(b) of the Schedule</p> <p>Section 19 (4) (a)(i) of the Pension Schemes Act 1993 requires that where a scheme discharges its contracted-out benefits liability by purchasing the individual member an annuity from an insurance company, the insurance company must be located in an EU State. The amendment ensures that where a scheme is based in the UK it can discharge its liabilities by purchasing an annuity in an EEA state. The amendment is not required by</p>	The Secretary of State and the Northern Ireland Executive

⁷ SI 2005/3380.

Article	Requirements	Implementation	Responsibility
19		<p>the extension of IORP to the other EEA States but assists in the creation of the internal market envisaged by IORP in the field of financial services and would be particularly relevant in the case of a scheme based in the UK which is operating cross border in one of the other EEA States. The amendment can be said to be ancillary to the obligations under Article 19, which also removes the limits on schemes seeking to operate in another Member State, and is also relevant to cross border situations arising under Article 20.”</p> <p>Regulation 2 and Paragraph 1(c) of the Schedule Section 32A (2)(a)(i) of the Pension Schemes Act 1993 provides that where a scheme is being wound up, a member’s rights may be protected by taking out an insurance policy. The insurer with whom the policy is taken out must currently be carrying out long term insurance business in the UK or another Member State. We have extended the area in which the insurer may be carrying out long term insurance business to the other EEA States for the same reasons given in Regulation 2 and paragraph (1)(b) of the Schedule (above).</p> <p>Regulation 2 and Paragraph 2 of the Schedule Schedule 5, para 6(2) of The Welfare Reform and Pensions Act 1999 is concerned with the manner in which a scheme may discharge its liability in respect of a pension credit. Again, we have extended the area in which the insurer may be carrying out long term insurance business to the other EEA States for the same reasons given in Regulation 2 and Paragraph (1)(b) of the Schedule (above).</p>	

Article	Requirements	Implementation	Responsibility
20	<p>Cross-border activities</p> <p>1) MSs shall allow undertakings located within their territories to sponsor institutions for retirement provision authorised in other MSs, and they shall allow institutions to accept sponsorship by undertakings located within other MSs.</p> <p>2) Competent authorities of the home MS shall subject an institution wishing to accept sponsorship from a sponsoring undertaking located within the territory of another MS to prior authorisation.</p> <p>The institution shall notify its intention to accept sponsorship from a sponsoring undertaking located within another MS to the competent authorities of the home MS where it is authorised.</p> <p>3) MSs shall require institutions located within their territories and proposing to be sponsored by an undertaking located in the</p>	<p>Regulation 4(c) Section 287(2) of the Pensions Act 2004 requires that a scheme must be authorised by the Pensions Regulator to receive contributions from a European employer. The amendments to the definitions of “host member state” and “member State” in section 287(6) ensure that schemes that receive contributions from European employers based in EEA States.</p> <p>Regulation 4(d) Section 289 (1) of the Pensions Act 2004 provides a requirement for UK-based schemes to notify and obtain approval from the Pensions Regulator each time they wish to take on new business and accept contributions from a different employer. These amendments ensure that they must now notify the Pensions Regulator that they intend to accept contributions from employers based in EEA States.</p> <p>Regulation 5(6) As part of the process (above), schemes are required to supply to the Pensions Regulator specified information in a ‘notice of intention’. The Cross-border Regulations require the information as outlined in Article</p>	The Secretary of State and the Northern Ireland Executive

Article	Requirements	Implementation	Responsibility
20	<p>territory of another MS to provide notification of:</p> <p>a) the host MS(s)</p> <p>b) the name of the sponsoring undertaking</p> <p>c) the main characteristics of the pension scheme to be operated for the sponsoring undertaking.</p> <p>4) requirement for a competent authority of the home MS which is notified under paragraph 2, to communicate, unless it has reason to doubt the administrative structure, financial situation or repute and professional qualifications of the persons running the institution, that information to the competent authorities of the host MS within 3 months, and inform the institution accordingly</p>	<p>20.3 (a – c). The amendments to paragraph 6 of Schedule 1 ensure that the requirement for this information is extended to the situation where UK-based schemes wish to accept sponsorship from employers based in the other EEA States.</p> <p>Regulations 4(d) and 5(4)</p> <p>(i) Section 289(2) of the Pensions Act 2004, requires the Pensions Regulator, on receipt of a scheme’s notice of intention to seek approval from a European employer, where he is satisfied that the persons giving the notice of intention meet prescribed conditions (detailed in Article 20(4)) to notify the competent authority of the host Member State of the contents of the notice of intention, and to notify the persons who gave the notice either that they are approved, or that they are not so approved within three months. The amendment to this section extends the Pensions Regulator’s requirement to notify to the competent authorities of the other EEA States.</p> <p>(ii) Regulation 12(2) of the Cross-border Regulations details the prescribed conditions referred to in (i). The amendment to this legislation extends the Pensions Regulator’s obligations (referred to in (i)) in respect of schemes wishing to seek approval in respect of European employers based in the other EEA States.</p>	

Article	Requirements	Implementation	Responsibility
20	<p>5) Requirement for the competent authorities in the host MS to inform the competent authorities in the home MS of the relevant requirements of social and labour law within two months.</p> <p>Requirement for the home MS to communicate this information to the institution.</p> <p>6) On receiving the communication referred to in paragraph 5, or if no communication is received from the competent authorities of the home Member State within two months, the institution may start to operate the pension scheme sponsored by an undertaking in the host Member State in accordance with the host Member State's requirements of social and labour law relevant to the field of occupational</p>	<p>Regulation 4(g)(i) and (ii) Section 293(1) and (2) of the Pensions Act 2004 places a duty on the Pensions Regulator to provide information of any relevant legal requirements (social and labour law) that would affect a cross-border scheme based in another Member State to the competent authorities in that home Member State. The amendment to this legislation provides that the Pensions Regulator's duties extend to schemes based in the other EEA states and to the competent authority in the relevant EEA State.</p> <p>Regulation 4(e) Section 290 of the Pensions Act 2004 places a duty on the Pensions Regulator to provide a UK-based cross-border scheme with information on the requirements of social and labour law of a host Member State which the Pensions Regulator has received from the competent authority in that host Member State. This amendment extends this duty so that the Pensions Regulator must pass on information he receives from the competent authority of a host EEA State.</p> <p>Regulation 4(f) Section 291 of the Pensions Act 2004 sets out the duty of trustees or managers of cross-border schemes to act consistently with the law of the host Member State. The amendment ensures that this requirement is extended so that trustees and managers of cross-border schemes must act consistently with the law of the host EEA state.</p>	

Article	Requirements	Implementation	Responsibility
20	<p>pensions, and any rules that are to be applied in accordance with Article 18(7) and with paragraph 7 of this Article.</p> <p>7) Requirement for an institution to be subject to any information requirements imposed by the competent authorities of the host Member State on institutions located in that Member State.</p> <p>8) Requirement for the competent authorities of the host Member State to inform the competent authorities of the home Member State of any significant change in the host Member State's relevant requirements of social and labour law.</p> <p>9) Requirement for the institution to be subject to ongoing supervision by the competent authorities of the host Member State.</p> <p>Requirement for the institution to comply with the host Member State's relevant</p>	<p>The UK has not implemented this requirement.</p> <p>Section 293(3) of the Pensions Act 2004 sets out the duty of the Pensions Regulator to inform the competent authority in the home Member State where there is a significant change in any relevant legal requirements as soon as reasonably practicable. No amendment to this subsection is required as it does not make a direct reference to "member State".</p> <p>Regulation 4(g)(iv) Section 293(4)(a) of the Pensions Act 2004 stipulates that where a UK undertaking makes contributions to a European pensions institutions the Pensions Regulator shall monitor the compliance of institutions that are based in other Member States with the "relevant legal requirements". The definition of "European pensions institution" has been amended at section 293(8) to extend the requirement placed on the Pensions Regulator so that it must monitor compliance of institutions based in EEA States.</p> <p>Regulation 4(f) Section 291 of the Pensions Act 2004 sets out the duty of trustees or</p>	

Article	Requirements	Implementation	Responsibility
20	<p>requirements of labour and social law.</p> <p>Requirement for the competent authorities of the host Member State to inform the competent authorities of the home Member State immediately of any irregularities.</p> <p>Requirement for the competent authorities of the home Member State to, in coordination with the competent authorities of the host Member State, take the necessary measures to ensure that the institution puts a stop to the detected breach of social and labour law.</p> <p>10) Option for the competent authorities of the host MS after informing the competent authorities of the home Member State, to take appropriate measures to prevent or penalise further irregularities, if, despite the measures taken by the competent authorities of the home Member State or</p>	<p>managers of cross-border schemes to act consistently with the law of the host Member State. The definition of “host member State” in is amended so that the obligation extends to comply with the law of a host EEA state.</p> <p>Regulation 4(g)(iii) Sub section 293(4)(b) of the Pensions Act 2004 requires the Pensions Regulator to inform the competent authority of the home Member State if the Pensions Regulator becomes aware of any contravention by the institution of any relevant legal requirements. The amendment ensures that the Pensions Regulator informs competent authorities of home EEA States where a contravention takes place.</p> <p>Regulation 5 (5) Regulation 13 of the Cross-border Regulations enables the Pensions Regulator to revoke approval of any schemes which fail to comply with the social and labour law of the host Member State. (These powers are provided for under section 289(4) of the Pensions Act 2004 – revocation of approval). The amendment extends the Pensions Regulator’s power to situations where schemes fail to comply with the social and labour law of the host <u>EEA</u> State.</p> <p>Regulation 4(h) Section 294 of the Pensions Act 2004 provides that the Pensions Regulator may assist the competent authority of the home Member State in preventing the free disposal of UK held assets of a European pensions institution. The amendment to section 294(1) will allow the Pensions Regulator, in the same way, to assist competent authorities of home EEA States.</p>	

Article	Requirements	Implementation	Responsibility
20	because appropriate measures are lacking in the home Member State, the institution persists in breaching the applicable provisions of the host Member State's relevant legal requirements.		

SCRUTINY HISTORY

Doc Ref 13420/00, COM(200)507: Proposal for a Directive of the European Parliament and of the Council on the coordination of laws, Regulations and administrative provisions relating to institutions for occupational retirement provisions.

The Government submitted explanatory memoranda to Parliament dated 11 December 2000 and 16 May 2001.

The House of Commons European Scrutiny Committee reported on the proposal and the Governments explanatory memoranda in report no.2, Session 00/01 and in report no. 31, Session 01/02.

The proposal and explanatory memoranda were sifted to Sub-Committee A of the House of Lords European Union Committee and were cleared by that committee following correspondence with Ministers on 17 June 2002.