

Regulation 2 of this instrument is made in consequence of a defect in S.I. 2013/627 and this instrument is being issued free of charge to all known recipients of S.I. 2013/627.

S T A T U T O R Y I N S T R U M E N T S

2013 No. 1754

PENSIONS

The Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2013

<i>Made</i>	- - - -	<i>11th July 2013</i>
<i>Laid before Parliament</i>		<i>16th July 2013</i>
<i>Coming into force</i>	- -	<i>1st October 2013</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 68(2)(e), 124(1) and 174(2) and (3) of the Pensions Act 1995(a) and sections 315(2) and 318(1) of, and paragraph 25A(1) of Schedule 7 to, the Pensions Act 2004(b).

In accordance with section 120(1) of the Pensions Act 1995 and section 317(1) of the Pensions Act 2004 the Secretary of State has consulted with 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 2013 and shall come into force on 1st October 2013.

Amendment of the Pension Protection Fund (Compensation) Regulations 2005

2. In regulation 2C of the Pension Protection Fund (Compensation) Regulations 2005(c) (conditions subject to which periodic and lump sum compensation can be postponed), for paragraph (3) substitute—

- “(3) The second condition is that the person must not have received or be receiving—
- (a) their pension (including any lump sum entitlement) under the scheme;
 - (b) any periodic compensation in respect of their rights under the scheme; or
 - (c) any lump sum compensation in respect of their rights under the scheme.”.

(a) 1995 c.26. Section 124(1) is cited for the meaning it gives to “prescribed” and “regulations”.
(b) 2004 c.35. Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”. Paragraph 25A was inserted by the Pensions Act 2008 (c. 30) Schedule 8 paragraph 13 and substituted by the Pensions Act 2011 (c. 19) Schedule 4 paragraph 22.
(c) S.I. 2005/670. Regulation 2C was inserted by S.I. 2013/627.

Amendment of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006

3. In the Occupational Pension Schemes (Modification of Schemes) Regulations 2006(a), after regulation 8 (modification of schemes: prescribed schemes) insert—

“Modification of schemes: reduction in the rate of pension

8A.—(1) The trustees of a scheme which, as at the relevant date, permits or otherwise provides for a reduction in the rate of pension taking effect upon a member reaching a specified age, not less than 60 and not more than 65, may by resolution modify the scheme for the purposes of permitting or otherwise providing instead for a reduction, of an equal or differing amount, in the rate of such a member’s pension to take effect at any time during the first permitted period.

(2) The trustees of a scheme which, as at the relevant date, permits or otherwise provides for a reduction in the rate of pension taking effect upon a member reaching the age of entitlement to state retirement pension, may by resolution modify the scheme for the purposes of permitting or otherwise providing instead for a reduction, of an equal or differing amount, in the rate of such a member’s pension to take effect at any time during the second permitted period.

(3) Any modification made under paragraph (2) must have no effect in respect of a pension in payment at the date such modification is made.

(4) A modification under paragraph (1) or (2) may not be made by the trustees unless it is reasonable in consequence of changes to the age at which members reach pensionable age in accordance with paragraph 1 of Schedule 4 to the 1995 Act (rules for determining pensionable age).

(5) A modification under paragraph (1) or (2) may not be made unless—

- (a) the employer in relation to the scheme consents; or
- (b) in the case of a scheme where there is more than one employer—
 - (i) a person nominated by the employers, or otherwise in accordance with the scheme rules, to act as the employers’ representative (the “nominee”) consents; or
 - (ii) where there is no such nominee, all of the employers in relation to the scheme consent other than any employer who has waived its right to give such consent.

(6) In this regulation—

“the relevant date” means 5th April 2010;

“the first permitted period” means the period beginning with the day on which a member reaches the age of 60 and ending with the day on which a member reaches pensionable age in accordance with paragraph 1 of Schedule 4 to the 1995 Act;

“the second permitted period” means the period beginning with the day on which a member reaches the age of 60 and ending with the day on which a member reaches the age of 65.”.

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

Steve Webb
Minister of State,
Department for Work and Pensions

11th July 2013

(a) S.I. 2006/759.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations clarify one of the eligibility conditions which must be satisfied to enable the postponement of a payment of compensation from the Board of the Pension Protection Fund. They also insert a new provision into the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (S.I. 2006/759) allowing trustees to modify their scheme rules by way of resolution, for the purposes of altering the amount and timing of a reduction in the rate of a pension provided for under pre-existing scheme rules.

Regulation 2 substitutes regulation 2C(3) of the Pension Protection Fund (Compensation) Regulations 2005 (S.I. 2005/670), which sets out one of the conditions that must be satisfied in order for a person to be eligible to postpone payment of compensation due in respect of an occupational pension scheme from the Board of the Pension Protection Fund. The condition is that the person must not have received any pension under, or compensation in respect of, that scheme. New regulation 2C(3) clarifies this condition.

Regulation 3 inserts regulation 8A into the Occupational Pension Schemes (Modification of Schemes) Regulations 2006. This amendment gives trustees the option to modify, by resolution, existing scheme rules which, as at 5th April 2010, provide for a reduction in the amount of pension upon a member reaching either the age of entitlement to state retirement pension or a specified age of not less than 60 and not more than 65. The amendment allows trustees to alter the amount and timing of such a reduction. However no pension in payment can be affected by a modification to scheme rules which, prior to that modification, allow for a reduction in the rate of pension upon a member reaching the age of entitlement to state retirement pension. Trustees may only make a modification to scheme rules which is reasonable in consequence of changes to the age at which members reach the age of entitlement to state retirement pension, for example where without a modification to its rules the scheme could incur significant, unanticipated costs or members might face financial hardship. A modification may only be made to scheme rules where provisions requiring the consent of any employer in relation to the scheme have been complied with.

An assessment of the impact of regulation 2 of this instrument formed part of the assessment of the impact of the Pensions Bill 2011. That included assessment of the impact of changes to allow eligible persons to postpone receipt of pension compensation on the private, voluntary and public sectors. An assessment of the impact of regulation 3 of this instrument was made to accompany the consultation on the draft Occupational Pension Schemes (Miscellaneous Amendment No.2) Regulations 2013. Copies of both assessments are available in the libraries of both Houses of Parliament and may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 6B Caxton House, 6-12 Tothill Street, London SW1H 9NA or from the DWP website: <http://www.dwp.gov.uk/policy/pensions-reform/pensions-bill-2011> and <https://www.gov.uk/government/consultations/the-occupational-pension-schemes-miscellaneous-amendments-no-2-regulations-2013>.

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