
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Board of the Pension Protection Fund (“the Board”) is established by section 107 of the Pensions Act 2004 (c. 35) (“the 2004 Act”) to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer, where the pension scheme is underfunded below a certain level. The compensation payable to individual members is determined in accordance with Schedule 7 to the 2004 Act and regulations made under it, including the Pension Protection Fund (Compensation) Regulations 2005 (S.I. 2005/670) (“the Compensation Regulations”). These Regulations make amendments to the Compensation Regulations to insert provisions modifying the effect of Schedule 7 to the 2004 Act in relation to certain schemes.

These Regulations also amend the definition of “pensionable service” in the Compensation Regulations and in the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 (S.I. 2005/441) (“the Multi-employer Regulations”) so that the definition of that term in paragraph 36 of Schedule 7 to the 2004 Act applies in both Regulations.

These Regulations additionally impose requirements on occupational pension schemes in relation to the statement of investment principles required under section 35 of the Pensions Act 1995 (c. 26) and the disclosure of information in relation to the statement of investment principles.

Regulation 2(3) inserts a new regulation 30 into the Compensation Regulations. Paragraph (1) of new regulation 30 provides that Schedule 7 to the 2004 Act has effect with the modifications set out in new regulation 30(3) to (5) in relation to a scheme if, immediately before the assessment date, under the admissible rules of the scheme a person is entitled or has rights to a “relevant fixed pension” as defined in paragraph (2) of new regulation 30. A relevant fixed pension is defined as a pension which arose by virtue of a transfer payment to the scheme, where the initial amount of the pension was determined at the time the transfer payment was received. In addition, the pension must not be attributable to a pension credit, or payable as a result of a person’s death.

Paragraph (4) of new regulation 30 provides that paragraph 26A(14) of Schedule 7 to the 2004 Act, which provides for expressions used in paragraph 26A to have the same meaning as in paragraph 26 of that Schedule, does not apply in so far as it relates to the meaning of “pensionable service”.

Paragraph (5) of new regulation 30 provides that, in cases to which the modifications apply, paragraph 36 of Schedule 7 to the 2004 Act has effect as if it included a new sub-paragraph (6) (except for the purposes of paragraph 26(1) and (2) of Schedule 7 to the 2004 Act, which relate to the application of the compensation cap). New sub-paragraph (6) provides that a person with a right or entitlement to a relevant fixed pension (defined in the same terms as in new regulation 30(2) of the Compensation Regulations) is to be treated, for the purposes of Schedule 7, as having pensionable service within paragraph 36(4)(b) (notional pensionable service), to which the relevant fixed pension is attributable.

In addition, paragraph (3) of new regulation 30 provides that, in relevant cases, paragraphs 15 and 16 of Schedule 7 to the 2004 Act have effect as if references to the time at which the member’s pensionable service in respect of the pension ended, were instead to the time at which the transfer payment which gave rise to the relevant fixed pension was received by the scheme.

Regulation 2(2) omits the definition of “pensionable service” from regulation 1(2) of the Compensation Regulations, so that the definition of that term in paragraph 36 of Schedule 7 to the 2004 Act applies for the purposes of the Compensation Regulations.

Status: This is the original version (as it was originally made).

Regulation 3 also amends the definition of “pensionable service” in regulation 1(2) of the Multi-employer Regulations, so that the definition of that term in paragraph 36 of Schedule 7 to the 2004 Act applies for the purposes of the Multi-employer Regulations.

Regulation 4 amends regulations 2 and 2A of the Occupational Pension Schemes (Investment) Regulations 2005 (S.I. 2005/3378) (“the Investment Regulations”), which relate to the statement of investment principles (“the SIP”) required under section 35 of the Pensions Act 1995 and, amongst other things, the default SIP required under regulation 2A of the Investment Regulations. The amendment provides for trustees to include a policy on how they will take account of financially material considerations in relation to investments in the SIP and default SIP. It also requires trustees of schemes (except schemes with fewer than 100 members) to include a policy on when they will undertake engagement activities in relation to investments (including monitoring and engaging with relevant persons such as an investment manager) in the SIP and default SIP.

Regulation 5 amends the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) (“the Disclosure Regulations”) to require the trustees of a relevant scheme to include in the annual report under regulation 12 of the Disclosure Regulations a statement on the extent to which the SIP has been followed during the scheme year and an explanation of any changes made to the SIP during that year (“the implementation statement”). It obliges trustees to make available free of charge the SIP and the implementation statement on a website, or where appropriate, in hard copy form to the public as a whole to enable people to compare costs and charges of different occupational pension schemes. In addition, the trustees must include details about the availability of these publications in the annual benefit statement issued to members with money purchase benefits.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. The Department for Work and Pensions has nonetheless undertaken an assessment of the impact of regulations 4 and 5 of this instrument, a copy of which is available from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.