

**2002 No. 2098**

**PENSIONS**

**The Stakeholder Pension Schemes (Amendment No. 2)  
Regulations 2002**

*Made - - - -* *8th August 2002*  
*Laid before Parliament* *14th August 2002*  
*Coming into force* *9th September 2002*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 1(1)(b), 8(1)(a) and 83(4)(a) and (b) and (6)(a) of the Welfare Reform and Pensions Act 1999(b) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Stakeholder Pension Schemes (Amendment No. 2) Regulations 2002 and shall come into force on 9th September 2002.

(2) In these Regulations a reference to a numbered regulation is to the regulation bearing that number in the Stakeholder Pension Schemes Regulations 2000(c).

**Amendment of Regulation 1**

2.—(1) Regulation 1(d) (citation, commencement and interpretation) shall be amended in accordance with this regulation.

(2) In paragraph (5) for “regulations 4(3) and 11(4)” there shall be substituted “regulation 4(3)”.

**Amendment of Regulation 11**

3.—(1) Regulation 11(e) (requirement for manager of schemes not established under trust to appoint a reporting accountant) shall be amended in accordance with this regulation.

(2) For paragraph (4) there shall be substituted the following paragraph—

“(4) A person is eligible for appointment as the reporting accountant only if he is eligible (but subject to paragraph (10)) under section 25 of the Companies Act 1989(f) for appointment as a company auditor.”.

(3) In paragraph (6) for “within one month of his receiving” there shall be substituted “by the end of one month beginning with the date he received”.

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(a) Section 8(1) is cited for the meaning given to “prescribed”.

(b) 1999 c.30.

(c) S.I. 2000/1403, amended by S.I. 2001/104, 934 and 3649 and 2002/1480. S.I. 2000/1403 is amended by S.I. 2002/1383 as from 6th April 2003.

(d) Regulation 1 was amended by S.I. 2001/934 and 3649 and is amended by S.I. 2002/1383 from 6th April 2003.

(e) Regulation 11 was amended by S.I. 2001/934.

(f) 1989 c.40.

(4) In paragraph (7) there shall be omitted the phrase “(including where he resigns solely or partly because he is required to do so by paragraph (7A))”**(a)**.

(5) In paragraph (7A)**(b)**—

(a) for “paragraph (11) or of not satisfying the conditions” substitute “not or no longer being a person defined in paragraph (11) who satisfies the condition”;

(b) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) he shall resign (with immediate effect) by notice in writing immediately he becomes aware that he is ineligible;”;

(c) in sub-paragraph (e) there shall be omitted the phrases—

(i) “notwithstanding sub-paragraph (c),”;

(ii) “are or”; and

(iii) “, or should reasonably be or become aware,”.

(6) For paragraphs (8) and (9)**(c)** there shall be substituted the following paragraphs—

“(8) Except in cases falling within paragraph (9), where the reporting accountant is removed by the trustees or manager or resigns or dies, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant—

(a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with; and

(b) in any event, by the end of 3 months beginning with the date of that removal, resignation or death.

(9) Where under paragraph (7A) the reporting accountant resigns with immediate effect or is removed, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant—

(a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with; and

(b) in any event, by the end of one month beginning with the date of that resignation or removal.”.

(7) In paragraph (10) for “paragraph (4)(c)” there shall be substituted “paragraph (4)”.

## **Amendment of Regulation 12**

4. For regulation 12**(d)** (requirement for annual declaration) substitute the following—

### **“Requirement for declaration by trustees or manager**

**12.**—(1) For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Subject to paragraph (11), the trustees or manager of the scheme shall, no later than the end of 6 months beginning with each reporting date—

(a) make a declaration in writing signed by the trustees or manager containing the statements set out in paragraph (5) in relation to the reporting period or, in so far as they are unable to make those statements, containing a statement explaining why they are unable to do so; and

(b) obtain from the reporting accountant appointed by virtue of regulation 11 the statement specified in paragraph (7) or, in so far as the reporting accountant is unable to make that statement, a statement from the reporting accountant explaining why he is unable to do so.

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**(a)** That phrase was inserted by S.I. 2001/934.

**(b)** Paragraph (7A) was inserted by S.I. 2001/934.

**(c)** Paragraphs (8) and (9) were inserted by S.I. 2001/934.

**(d)** Regulation 12 was amended by S.I. 2001/934 and 2002/1480.

- (3) Subject to paragraph (10), in this regulation “reporting date” means—
- (a) in the case of the first reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date on which the scheme is registered under section 2 of the Act; and
  - (b) in the case of each subsequent reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date immediately following the previous reporting date.
- (4) Subject to paragraph (10), in this regulation “reporting period” means—
- (a) in the case of the first reporting period, the period beginning on the date of registration of the scheme under section 2 of the Act and ending on and including the first reporting date;
  - (b) in the case of subsequent reporting periods, the period beginning on the date immediately following the previous reporting date and ending on and including the reporting date.
- (5) The statements specified in paragraph (2)(a) shall be—
- (a) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that—
    - (i) regulations 13 and 14 have been complied with in relation to the scheme;
    - (ii) transactions for the purposes of the scheme in securities, property or other assets have occurred at a fair market value;
    - (iii) the value of members’ rights has been determined in accordance with the provisions in the instruments establishing the scheme; and
    - (iv) adequate records have been maintained for the purposes of providing to members the statement required by regulation 18(2);
  - (b) a statement describing the process that the trustees or manager have or has undertaken in order to arrive at the opinion expressed in the statement described in paragraph (5)(a);
  - (c) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that the scheme has complied with the conditions in section 1(1) of the Act, apart from those conditions that are covered by the statement in paragraph (5)(a); and
  - (d) a statement which explains that—
    - (i) regulations 13 and 14 impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme; and
    - (ii) regulation 18(2) requires a stakeholder pension scheme to provide an annual benefit statement to each member.
- (6) The trustees or manager shall provide the reporting accountant with documentation to demonstrate that the process described in the statement in paragraph (5)(b) has taken place.
- (7) The statement specified in paragraph (2)(b) shall be a statement that—
- (a) the reporting accountant has been provided with documentation as required by paragraph (6); and
  - (b) nothing has come to the attention of the reporting accountant that is inconsistent with the statement made in paragraph (5)(b).
- (8) The trustees or manager shall make available to members and beneficiaries of the scheme on request the declaration made by the trustees or manager and the statement obtained from the reporting accountant in accordance with paragraph (2).
- (9) If the statement to be obtained by the trustees or manager under paragraph (2)(b) is obtained from the reporting accountant acting as such while ineligible in contravention of regulation 11(7A)(a)—
- (a) the trustees or manager shall not be regarded as having complied with paragraph (2)(b); and

- (b) for the purposes of paragraph (8), the statement from the reporting accountant shall not be regarded as obtained in accordance with paragraph (2)(b).
- (10) Where a scheme is registered under section 2 of the Act on or before 6th April 2001—
- (a) the first reporting date shall be 5th April 2002; and
  - (b) the first reporting period shall be the period beginning on and including 6th April 2001 and ending on and including 5th April 2002.
- (11) Where the reporting date is on or before 30th September 2002 the trustees or manager of the scheme shall make the declaration specified in paragraph (2)(a) and obtain the statement specified in paragraph (2)(b) from the reporting accountant—
- (a) on or before 31st December 2002; or
  - (b) by the end of 6 months beginning with the reporting date,
- whichever is later.”.

### **Amendment of Regulation 15**

5.—(1) Regulation 15(a) (requirement for trustees or manager to satisfy certain conditions in relation to with-profit funds) shall be amended in accordance with this regulation.

(2) In paragraph (3)(c) for the words “stakeholder pension scheme’s reporting accountant to make the statement mentioned in regulation 12(5)(a)(i) so far as that statement relates to regulation 12(2)(d)(ii)” there shall be substituted “trustees or manager to make the declaration mentioned in regulation 12(2)(a)”.

(3) In paragraph (4)(b) for the words “at least annually to the reporting accountant and, as the case may be, to the auditor of the scheme” there shall be substituted “to the auditor of the scheme if requested by the auditor, trustees or manager”.

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

8th August 2002

*Nick Brown*  
Minister of State,  
Department for Work and Pensions

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(a) Regulation 15 was amended by S.I. 2001/934 and 3649.

## EXPLANATORY NOTE

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

These Regulations amend regulations 1, 11, 12 and 15 of the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403) (“the Principal Regulations”). Regulation 11 of the Principal Regulations requires the trustees or manager of a stakeholder scheme to appoint a reporting accountant and sets out the eligibility requirements for appointment as a reporting accountant. Regulation 12 of the Principal Regulations provides for an annual declaration as to the arrangements made by the trustees or manager of a stakeholder scheme for ensuring the proper administration of the scheme and for those trustees or that manager to obtain statements from the scheme’s reporting accountant as to the reasonableness of the declaration. Regulation 15 of the Principal Regulations sets out the conditions for the assets of a scheme to be invested in with-profits funds.

Regulation 1 provides for citation, commencement and interpretation. Regulation 2 makes a consequential amendment to regulation 1 of the Principal Regulations.

Regulation 3 amends regulation 11 of the Principal Regulations. Regulation 3(2) removes certain eligibility requirements for appointment as a reporting accountant. Regulation 3(3), (4), (5) and (6) clarify the drafting of regulation 11. Regulation 3(7) makes a consequential amendment.

Regulation 4 substitutes a new regulation 12. Regulation 12(2) requires the trustees or manager of the scheme to make a declaration and obtain a reporting accountant’s statement within 6 months of the reporting date. Regulation 12(3) sets out how the reporting date is to be calculated. Regulation 12(4) sets out how the reporting period is to be calculated. Regulation 12(5) sets out the statements to be made by the trustees or manager in their declaration. Regulation 12(6) requires the trustees or manager to provide the reporting accountant with documentation to support one of the statements in their declaration. Regulation 12(7) sets out the statement to be obtained by the trustees or manager from the reporting accountant. Regulation 12(8) requires the trustees or manager to send copies of the declaration and reporting accountant’s statement to members and beneficiaries on request. Regulation 12(9) provides that any statement obtained from a reporting accountant who is ineligible for such an appointment will not be regarded as a statement obtained in accordance with the Regulations. Regulation 12(10) and (11) provide transitional provisions relating to the time limits for the trustees or manager of the scheme to make their declaration and obtain a statement from the reporting accountant and to the determination of the reporting date and reporting period for schemes registered prior to or on 6th April 2001.

Regulation 5(2) amends regulation 15(3)(c) of the Principal Regulations to require an insurance company managing with-profits funds for a scheme to pass various certificates to the trustees or manager. Regulation 5(3) amends regulation 15(4)(b) of the Principal Regulations to remove the requirement for the certificate from the appointed actuary to the insurance company to be sent to the reporting accountant and allows the auditor, trustees or manager to request that the certificate be sent to the auditor.

A Regulatory Impact Assessment has been placed in the libraries of both Houses of Parliament and copies can be obtained from the Department for Work and Pensions, Regulatory Impact Unit, Adelphi, 1–11 John Adam Street, London WC2N 6HT.





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**£2.00**

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E1265 8/02 ON (MFK)