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STATUTORY INSTRUMENTS

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**2005 No. 1720**

**The Pensions Act 2004 (Commencement No. 6,  
Transitional Provisions and Savings) Order 2005**

**Transitional provisions**

**4.—(1)** In this article, unless the context otherwise requires, “function of the Pensions Compensation Board” means—

- (a) the determination of the terms and conditions on which to make compensation payments in accordance with section 78(4) of the 1995 Act (terms and conditions of payments);
- (b) the duty under section 79(1) of the 1995 Act (reports to the Secretary of State) to prepare and send reports to the Secretary of State;
- (c) the review under section 80(2) of the 1995 Act (review of decisions) or article 78 of the Pensions (Northern Ireland) Order 1995(3) (review of Compensation Board’s decisions) of a determination made by the Pensions Compensation Board before 1st September 2005 in relation to a function of the Pensions Compensation Board specified in any of subparagraphs (a) and (d) to (g);
- (d) the determination under section 81(4) of the 1995 Act or article 79(4) of the Pensions (Northern Ireland) Order 1995 (recoveries of value) as to whether anything received by the trustees of an occupational pension scheme is a recovery of value;
- (e) the determination that section 81(4) of the 1995 Act or article 79(5) of the Pensions (Northern Ireland) Order 1995 (cases where compensation provisions apply) applies to applications for compensation payments and that such applications comply with the requirements of section 82 of the 1995 Act or, as the case may be, article 80 of the Pensions (Northern Ireland) Order 1995 (applications for payments);
- (f) the determination of settlement dates, and making pension compensation payments in accordance with section 83(6) of the 1995 Act or article 81(7) of the Pensions (Northern Ireland) Order 1995 (amount of compensation);
- (g) the determination as to when to make payments in anticipation under section 84 of the 1995 Act or article 82 of the Pensions (Northern Ireland) Order 1995 (payments made in anticipation);

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- (1) Section 79 was amended by paragraph 16 of Schedule 2 to the Welfare Reform and Pensions Act 1999.
  - (2) Section 80 was amended by section 277(2) of the Pensions Act 2004.
  - (3) S.I.1995/3213 (N.I. 22). Article 78 was amended by article 254(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)).
  - (4) Section 81 was amended by section 17(1) and (2) of the Welfare Reform and Pensions Act 1999 and section 277(3) of the Pensions Act 2004.
  - (5) Article 79 was amended by article 16(1) and (2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and article 254(3) of the Pensions (Northern Ireland) Order 2005.
  - (6) Section 83 was amended by section 17(3) to (6) of the Welfare Reform and Pensions Act 1999 and section 277(4) of the Pensions Act 2004.
  - (7) Article 81 was amended by article 16(3) to (6) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and article 254(4) of the Pensions (Northern Ireland) Order 2005.

(h) the duty to keep proper accounts and records, to prepare a statement of accounts for each financial year and to send copies of the statement to such persons, at such times as are set out in paragraph 17 of Schedule 2 to the 1995 Act (accounts).

(2) Anything done (or having effect as if done) by, or in relation to, the Pensions Compensation Board before 1st September 2005 pursuant to, or for the purposes of, any function of the Pensions Compensation Board shall, so far as is required for continuing its effect, have effect as if done by, or in relation to, the Board pursuant to, or for the purposes of, that function.

(3) Subject to paragraph (5), anything which, immediately before 1st September 2005, is in the process of being done by, or in relation to, the Pensions Compensation Board pursuant to, or for the purposes of, any function of the Pensions Compensation Board shall be continued by, or in relation to, the Board pursuant to, or for the purposes of, that function.

(4) Any reference to the Pensions Compensation Board in any document constituting or relating to anything to which paragraph (2) or (3) applies in relation to any function of the Pensions Compensation Board shall, so far as is required for giving effect to those provisions, be construed as a reference to the Board.

(5) Where any function of the Pensions Compensation Board described in paragraph (6) would, but for its dissolution, fall to be exercised on or after 1st September 2005, or fell to be exercised before 1st September 2005 but has not been exercised, that function shall be exercised by the Board as if it were a function of the Board conferred on it under, or by virtue of, the Act or the Pensions (Northern Ireland) Order 2005<sup>(8)</sup>.

(6) The functions of the Board to which paragraph (5) refers are—

- (a) the functions referred to in paragraph (1); and
- (b) any determination in relation to an application for a pension compensation payment made where the circumstances in paragraph (7) apply.

(7) An application under section 82 of the 1995 Act or article 80 of the Pensions (Northern Ireland) Order 1995 may be made after 1st September 2005 by a person prescribed in regulations made under that section or, as the case may be, that article where—

- (a) the employer in relation to an occupational pension scheme was insolvent before 6th April 2005;
- (b) the determination of an application under that section or that article was not made before 1st September 2005; and
- (c) section 182(1) of the Act or article 165(1) of the Pensions (Northern Ireland) Order 2005 (cases where fraud compensation payments can be made) does not apply.

(8) Where paragraph (7) applies, an application made under section 82 of the 1995 Act or article 80 of the Pensions (Northern Ireland) Order 1995 must be made before 6th April 2006.

(9) Where, by virtue of section 302(2) of the Act (transfer of functions, property etc. of the Pensions Compensation Board), information created by the Pensions Compensation Board has been obtained by the Board, such information shall be treated for the purposes of sections 197 to 201 and 203 of the Act or articles 179 to 183 and 185 of the Pensions (Northern Ireland) Order 2005 (disclosure of information and provision of information to members of schemes etc) as having been obtained by the Board in the exercise of its functions from the Pensions Compensation Board.

(10) Where paragraph (3) applies—

- (a) sections 78(4) and 79 to 84 of, and paragraph 17 of Schedule 2 to, the 1995 Act shall be read as if references to “the Compensation Board” were references to “the Board of the Pension Protection Fund”;
- (b) section 79 of the 1995 Act shall be modified as if after subsection (1) there were inserted—

<sup>(8)</sup> S.I. 2005/255 (N.I. 1).

“(1A) Sub-paragraph (5) of paragraph 17(9) of Schedule 2 (meaning of financial year beginning with 6th April 2005) shall apply for the purposes of subsection (1) as for those of that paragraph.”; and

- (c) paragraph 17 of Schedule 2 to the 1995 Act shall be modified as if after sub-paragraph (4) there were added—

“(5) In this paragraph, for the financial year beginning with 6th April 2005, “financial year” means the period beginning with 6th April 2005 and ending with 31st August 2005.”.

- (11) Where paragraph (5) applies, Schedule 9 to the Act (reviewable matters) shall be modified as if after paragraph 30 there were added—

“**31** Any determination by the Board, or any failure by the Board, to exercise any function of the Pensions Compensation Board under sections 78(4) and 81 to 84 of the Pensions Act 1995 (compensation provisions) where any such function is exercised by the Board as if it were a function of the Board conferred on it under, or by virtue of, this Act.”.

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(9) Sub-paragraph (5) of paragraph 17 is added by article 4(10)(c) of this Order.