STATUTORY INSTRUMENTS

2005 No. 3331 (C. 141)

PENSIONS

The Pensions Act 2004 (Commencement No. 8) Order 2005

Made - - - - 2nd December 2005

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 315(2) and 322(1) of the Pensions Act 2004(a):

Citation and interpretation

1.—(1) This Order may be cited as the Pensions Act 2004 (Commencement No. 8) Order 2005.

(2) In this Order—

"the Act" means the Pensions Act 2004;

"the 1995 Act" means the Pensions Act 1995(b);

"the 1999 Act" means the Welfare Reform and Pensions Act 1999(c);

"pay-as-you-go scheme" means an occupational pension scheme under which there is no requirement for assets to be set aside in advance for the purpose of providing benefits under the scheme (disregarding any requirements relating to additional voluntary contributions).

Appointed days

2.—(1) Subject to article 3, the day appointed for the coming into force of the provisions of the Act specified in Part 1 of the Schedule—

- (a) for the purpose only of conferring power to make regulations, is 4th December 2005; and
- (b) for all other purposes, is 30th December 2005.

(2) The day appointed for the coming into force of the provisions of the Act specified in Part 2 of the Schedule is 9th December 2005.

(3) The day appointed for the coming into force of the provisions of the Act specified in Part 3 of the Schedule is 1st January 2006.

(4) The day appointed for the coming into force of the provisions of the Act specified in Part 4 of the Schedule—

(a) for the purpose only of conferring power to make regulations, is 1st January 2006; and

(b) for all other purposes, is 1st April 2006.

(5) The day appointed for the coming into force of the provisions of the Act specified in Part 5 of the Schedule—

(a) for the purpose only of conferring power to make regulations, is 1st January 2006; and

⁽a) 2004 c.35.

⁽**b**) 1995 c.26.

⁽c) 1999 c.30.

(b) for all other purposes, is 6th April 2006.

(6) The day appointed for the coming into force of the provisions of the Act specified in Part 6 of the Schedule is 6th April 2006.

Appointed day for the coming into force of section 287 of the Act in relation to pre-23rd September schemes

3.—(1) This article applies to a scheme which is a pre-23rd September 2005 scheme.

(2) Where in relation to a pre-23rd September 2005 scheme—

- (a) both an application for authorisation under section 288 of the Act (general authorisation to accept contributions from European employers) and an application for approval under section 289 of the Act (approval in relation to particular European employer) have been made on or before 29th March 2006, the day appointed for the commencement of section 287 of the Act (occupational pension scheme receiving contributions from European employer) is the day after the expiry of the period of five months beginning with the application date;
- (b) such applications have not been made on or before 29th March 2006, the day appointed for the commencement of section 287 of the Act is 30th March 2006.

(3) In this article—

"application date" means-

- (a) the date on which the trustees or managers of the relevant pre-23rd September 2005 scheme make both an application for authorisation and an application for approval under sections 288 and 289 of the Act, or
- (b) where those applications are not made on the same day, the date on which the last of those applications is made;

"pre-23rd September 2005 scheme" means an occupational pension scheme-

- (a) which-
 - (i) has its main administration in the United Kingdom, and
 - (ii) is not a pay-as-you-go scheme, and
- (b) in relation to which—
 - (i) the trustees or managers were accepting contributions on 22nd September 2005 from any person who, had section 287(6) of the Act been in force at that date, would have been a European employer, or
 - (ii) any such person was under a liability to pay contributions to the trustees or managers on 22nd September 2005.

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

Stephen C. Timms Minister of State, Department for Work and Pensions

2nd December 2005

SCHEDULE

PART 1

PROVISIONS OF THE ACT COMING INTO FORCE ON 4th DECEMBER 2005 FOR THE PURPOSE ONLY OF CONFERRING POWER TO MAKE REGULATIONS AND ON 30th DECEMBER 2005 FOR ALL OTHER PURPOSES

Provisions of the Act	Subject matter
sections 221 to 233	scheme funding
sections 244 to 246	investment and borrowing
sections 287 to 295, in so far as they relate to an occupational pension scheme with its main administration in the United Kingdom which is not a pay-as-you-go scheme	cross-border activities within European Unior
section 306(2)(h) and (m)	overriding requirements
section 315, in so far as it is not already in force	subordinate legislation (general provisions) – power to make transitional modifications and savings
Schedule 12, paragraphs 49, 51, 52, 75, 76(1) and (2)(c) and 77 (in so far as it is not already in force), and section 319(1) in so far as it relates to those paragraphs	minor and consequential amendments
Schedule 13, in so far as it relates to the repeals there specified in relation to— sections 36(2), 41(2)(c) and 56 to 61 of the 1995 Act Schedule 1 (in so far as the specified repeals are not already in force), and paragraph 14 of Schedule 2, to the 1999 Act and section 320 in so far as it relates to those provisions	repeals

PART 2

PROVISIONS OF THE ACT COMING INTO FORCE ON 9th DECEMBER 2005

Provisions of the Act	Subject matter
section 110, in so far as it is not already in force	Board's functions
section 175(1) to (3), (4)(a) and (b) and (5) to (10), in so far as those provisions are not already in force	pension protection levies

section 177(1) to (3) and (9)(a) section 178(1) and (2)	amounts to be raised by the pension protection levies the levy ceiling
Section $170(1)$ and (2)	the levy certifig
section 180(1) to (3)	pension protection levies during the transitional period
section 181(1), in so far as it is not already in force	calculation, collection and recovery of levies
section 319(2), in so far as it is not already in force	minor and consequential amendments
Schedule 8	restricted information held by the Board: certain permitted disclosures to facilitate the exercise of its functions
Schedule 12, paragraphs 45, 46 (in so far as it is not already in force), 50, 54, 55, 76(2)(b) and (d) and (5) (in so far as it is not already in force), and section 319(1) in so far as it relates to those paragraphs	minor and consequential amendments
Schedule 13, in so far as it relates to the repeals there specified in relation to sections 49 and 49A(4) of the 1995 Act, and section 320 in so far as it relates to those provisions	repeals

PART 3

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st JANUARY 2006

Provisions of the Act	Subject matter
section 168(1), (2)(a) to (c), (e) and (f) and (3)	administration of compensation
section 220	pension sharing
Schedule 12, paragraphs 3 and 4, and section 319(1) in so far as it relates to those paragraphs	minor and consequential amendments

PART 4

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st JANUARY 2006 FOR THE PURPOSE ONLY OF CONFERRING POWER TO MAKE REGULATIONS AND ON 1st APRIL 2006 FOR ALL OTHER PURPOSES

Provisions of the Act	Subject matter
section 189(1), (2), (3)(a), (4) to (10) and (11) (in so far as it is not already in force)	fraud compensation levy
Schedule 5, paragraph 22 (in so far as it is not already in force), and section 109 in so far as it relates to that paragraph	accounts

PART 5

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st JANUARY 2006 FOR THE PURPOSE ONLY OF CONFERRING POWER TO MAKE REGULATIONS AND ON 6th APRIL 2006 FOR ALL OTHER PURPOSES

Provisions of the Act	Subject matter
section 161(1), (2) (in so far as it is not already in force), (3)(a), (4) and (6) to (8)	effect of Board assuming responsibility for a scheme
section 163(1) to (4), (5)(a), (6) and (7)	adjustments to be made where the Board assumes responsibility for a scheme
section 166(1) to (5) and (8)	duty to pay scheme benefits unpaid at assessment date etc
section 170	discharge of liabilities in respect of money purchase benefits
section 171	equal treatment
section 253	non-European scheme to be trust with UK- resident trustee
sections 259 to 261	consultation by employers
section 264	early leavers: cash transfer sums and contribution refunds
Schedule 12, paragraph 18, and section 319(1) in so far as it relates to that paragraph	minor and consequential amendments

PART 6

PROVISIONS OF THE ACT COMING INTO FORCE ON 6th APRIL 2006

Provisions of the Act	Subject matter
section 161(5) and Schedule 6	transfer of property, rights and liabilities to the Board
Schedule 12, paragraphs 12, 13, 30 to 32, 53, 56 (in so far as it is not already in force), 62(c), 63(c) and 69, and section 319(1) in so far as it relates to those paragraphs	minor and consequential amendments
Schedule 13, in so far as it relates to the repeals there specified in relation to—	repeals
sections 16 to 21, 89(2) and 117(2) of the 1995 Act	
paragraphs 44 to 49 and 53 of Schedule 12 to the 1999 Act	
sections 43 to 46 of the Child Support, Pensions and Social Security Act 2000(a)	
and section 320 in so far as it relates to those provisions	

(a) 2000 c.19.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further provision for the coming into force of provisions of the Pensions Act 2004 (c.35) ("the Act").

Article 2(1) appoints the day for the coming into force of the provisions of the Act specified in Part 1 of the Schedule as 4th December 2005 for the purpose of conferring power to make regulations and 30th December 2005 for all other purposes. Those provisions are—

sections 221 to 233 (scheme funding);

sections 244 to 246 (investment and borrowing);

sections 287 to 295 (subject to article 3) (cross-border activities within the European Union);

section 306(2)(h) and (m) (overriding requirements);

section 315 (subordinate legislation: power to make transitional modifications and savings), in so far as it is not already in force;

paragraphs 49, 51, 52, 75, 76(1) and (2)(c) and 77 (in so far as it is not already in force) of Schedule 12 (minor and consequential amendments);

Schedule 13 (repeals), in so far as it relates to the repeals there specified in relation to sections 36(2), 41(2)(c) and 56 to 61 of the Pensions Act 1995 (c.26) ("the 1995 Act") and Schedule 1 (in so far as the specified repeals are not already in force), and paragraph 14 of Schedule 2, to the Welfare Reform and Pensions Act 1999 (c.30) ("the 1999 Act").

Article 2(2) appoints the day for the coming into force of the provisions of the Act specified in Part 2 of the Schedule as 9th December 2005. These are provisions in—

section 110 (Board's functions);

section 175 (pension protection levies);

section 177 (amounts to be raised by the pension protection levies);

section 178 (the levy ceiling);

section 180 (pension protection levies during the transitional period);

section 181 (calculation, collection and recovery of levies);

section 319 (minor and consequential amendments);

Schedule 8 (restricted information held by the Board: certain permitted disclosures to facilitate the exercise of its functions);

paragraphs 45, 46, 50, 54, 55 and 76 of Schedule 12;

Schedule 13, in so far as it relates to the repeals there specified in relation to sections 49 and 49A of the 1995 Act.

Article 2(3) appoints the day for the coming into force of the provisions of the Act specified in Part 3 of the Schedule as 1st January 2006. Those provisions are—

section 168(1), (2)(a) to (c), (e) and (f) and (3) (administration of compensation);

section 220 (pension sharing);

paragraphs 3 and 4 of Schedule 12.

Article 2(4) appoints the day for the coming into force of the provisions of the Act specified in Part 4 of the Schedule as 1st January 2006 for the purpose of conferring power to make regulations and 1st April 2006 for all other purposes. These are provisions in—

section 189 (fraud compensation levy);

paragraph 22 (accounts) of Schedule 5.

Article 2(5) appoints the day for the coming into force of the provisions of the Act specified in Part 5 of the Schedule as 1st January 2006 for the purpose of conferring power to make regulations and 6th April 2006 for all other purposes. These are provisions in—

section 161 (effect of Board assuming responsibility for a scheme);

section 163 (adjustments to be made where the Board assumes responsibility for a scheme);

section 166 (duty to pay scheme benefits unpaid at assessment date etc);

section 170 (discharge of liabilities in respect of money purchase benefits);

section 171 (equal treatment);

section 253 (non-European scheme to be trust with UK-resident trustee);

sections 259 to 261 (consultation by employers);

section 264 (early leavers);

paragraph 18 of Schedule 12.

Article 2(6) appoints the day for the coming into force of the provisions of the Act specified in Part 6 of the Schedule as 6th April 2006. Those provisions are—

section 161(5) and Schedule 6 (transfer of property, rights and liabilities to the Board);

paragraphs 12, 13, 30 to 32, 53, 56 (in so far as it is not already in force), 62(c), 63(c) and 69 of Schedule 12;

Schedule 13, in so far as it relates to the repeals there specified in relation to-

sections 16 to 21 (member-nominated trustees and directors), 89(2) (application of further provisions to money purchase schemes) and 117(2) (overriding requirements) of the 1995 Act;

paragraphs 44 to 49 and 53 (amendment of sections 3, 16 to 18, 20, 21 and 67 of the 1995 Act) of Schedule 12 to the 1999 Act;

sections 43 to 46 of the Child Support, Pensions and Social Security Act 2000 (c.19) (selection of trustees and directors of corporate trustees).

Article 3 appoints the day for the coming into force of section 287 of the Act in relation to pre-23rd September 2005 schemes—

in the case of a scheme where an application for authorisation and an application for approval has been made on or before 29th March 2006, as the day after the expiry of the period of five months beginning with the application date;

where such applications have not been made on or before 29th March 2006, as 30th March 2006.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Pensions Act 2004 have been brought into force on the dates shown by commencement orders before the date of this Order. Some of these provisions will not be in force on the date that this Order is made.

Provision	Date of	S.I. No.
	Commencement	
section 1	17th December 2004	2004/3350
section 2 (partially)	17th December 2004	2004/3350
section 2 (for all other purposes)	6th April 2005	2005/275
section 3 (partially)	17th December 2004	2004/3350
section 3 (partially)	10th February 2005	2005/275

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section 44 (for all other purposes)	6th April 2005	2005/275
section 45 (partially)	10th February 2005	2005/275
section 45 (for all other purposes)	6th April 2005	2005/275
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section 47 (partially)	6th April 2005	2005/275
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section 50 (partially)	6th April 2005	2005/275
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section 52 (partially)	10th February 2005	2005/275
section 52 (for all other purposes)	6th April 2005	2005/275
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section 57 (partially)	10th February 2005	2005/275
section 57 (for all other purposes)	6th April 2005	2005/275
section 58	6th April 2005	2005/275
section 59 (partially)	10th February 2005	2005/275
section 59 (partially)	1st April 2005	2005/275
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section 69 (partially)	10th February 2005	2005/275
section 69 (for all other purposes)	6th April 2005	2005/275
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section 86 (partially)	6th April 2005	2005/275
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section 90 (partially)	6th April 2005	2005/275
section 90 (for all other purposes)	14th November 2005	2005/2447
section 91 (partially)	17th December 2004	2004/3350
section 91 (for all other purposes)	6th April 2005	2005/275
section 92	6th April 2005	2005/275
section 93 (partially)	10th February 2005	2005/275
section 93 (for all other purposes)	6th April 2005	2005/275
section 94	6th April 2005	2005/275
section 95 (partially)	6th April 2005	2005/275
section 96 (partially)	6th April 2005	2005/275
section 97 (partially)	10th February 2005	2005/275
section 97 (for all other purposes)	6th April 2005	2005/275
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section 101 (partially)	6th April 2005	2005/275
section 102 (partially)	17th December 2004	2004/3350
section 102 (partially)	10th February 2005	2005/275
section 102 (for all other purposes)	6th April 2005	2005/275
section 103 (partially)	10th February 2005	2005/275
section 103 (for all other purposes)	6th April 2005	2005/275
section 104 (partially)	10th February 2005	2005/275
section 104 (for all other purposes)	6th April 2005	2005/275
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section 106 (partially)	10th February 2005	2005/275
section 106 (for all other purposes)	6th April 2005	2005/275
section 107	17th December 2004	2004/3350
section 108 (partially)	17th December 2004	2004/3350
section 108 (partially)	6th April 2005	2005/275
section 109 (partially)	17th December 2004	2003/275
section 109 (partially)	6th April 2005	2005/275
section 109 (partially)	1st September 2005	2005/2447
section 100 (partially)	17th December 2004	2003/2447
section 110 (partially)	6th April 2005	2004/3330
section 110 (partially)	1st September 2005	2005/1720
section 110 (partially)	17th December 2004	2003/1720
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section 112 (partially)		
section 112 (partially)	10th February 2005	2005/275
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section 113	6th April 2005	2005/275
section 114 (partially)	10th February 2005	2005/275
section 114 (for all other purposes)	6th April 2005	2005/275
section 115 (partially)	10th February 2005	2005/275
section 115 (for all other purposes)	8th March 2005	2005/275
section 116	17th December 2004	2004/3350
section 117 (partially)	10th February 2005	2005/275
section 117 (partially)	1st April 2005	2005/275
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