

2007 No. 834

PENSIONS

The Pension Protection Fund (Contributions Equivalent Premium) Regulations 2007

<i>Made</i>	- - - -	<i>13th March 2007</i>
<i>Laid before Parliament</i>		<i>16th March 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 56(2), (7) and (8)(b), 181(1), 182(2) and 183(1) of the Pension Schemes Act 1993(a), sections 52(2), (7), (8) and (9)(b), 176(1), 177(2) and (3) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(b) and now vested in him(c), and sections 135(4), 315(2), (4) and 318(1) of the Pensions Act 2004(d).

In accordance with section 185(1) of the Pension Schemes Act 1993(e) and section 317(1) of the Pensions Act 2004 the Secretary of State has consulted such persons as he considers appropriate.

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Pension Protection Fund (Contributions Equivalent Premium) Regulations 2007 and shall come into force on 6th April 2007.

(2) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993;

“the 1993 NI Act” means the Pension Schemes (Northern Ireland) Act 1993;

“the 2004 Act” means the Pensions Act 2004;

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- (a) 1993 c.48. Section 56(2) was amended by Part 3 of Schedule 7 to the Pensions Act 1995 (c.26) and paragraph 54 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 56(7) and (8) was inserted by paragraph 11(3) of Schedule 12 to the Pensions Act 2004 (c.35). Section 183(1) was amended by Parts 3 and 4 of Schedule 7 to the Pensions Act 1995. Section 181(1) is cited for the meaning given there to “modifications”, “prescribed” and “regulations”.
- (b) 1993 c.49. Section 52(2) was amended by Part 3 of Schedule 5 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 64(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671). Section 52(8) and (9) was added by paragraph 7(3) of Schedule 10 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)). Section 178(1) was amended by Parts 3 and 4 of Schedule 5 to the Pensions (Northern Ireland) Order 1995. Section 52(7) was added by paragraph 64(3) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and is cited for the meaning given there to “prescribed”. Section 176(1) is cited for the meaning given there to “modifications”.
- (c) See section 52(7) of the Pension Schemes (Northern Ireland) Act 1993.
- (d) 2004 c.35. Part 2 of the Pensions Act 2004 is modified in its application to partially guaranteed schemes by S.I. 2005/277, in its application to multi-employer schemes by S.I. 2005/441 (as amended by S.I. 2005/993 and 2113) and in its application to hybrid schemes by S.I. 2005/993. Section 318(1) is cited for the meaning given there to “prescribed” and “regulations”.
- (e) Section 185(1) was amended by paragraph 46 of Schedule 3 to, and paragraph 80(a) of Schedule 5 to, the Pensions Act 1995.

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005(a);

“the assessment date” means the date on which the assessment period in relation to the scheme or section of the scheme began;

“the Contracting-out Regulations” means the Occupational Pension Schemes (Contracting-out) Regulations 1996(b);

“the Contracting-out Regulations (NI)” means the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(c);

“CEP” means a contributions equivalent premium within the meaning of section 55 of the 1993 Act(d) or, as the case may be, section 51 of the 1993 NI Act(e) (payment of state scheme premiums on termination of certified status);

“segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section, and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

(3) In these Regulations, references to a scheme include, in the case of a segregated scheme, any section of the scheme.

(4) This regulation, in so far as it relates to regulations 2 to 4, 6 and 8, and regulations 2 to 4, 6 and 8 apply to England and Wales, and Scotland.

(5) This regulation, in so far as it relates to regulations 5, 7 and 9, and regulations 5, 7 and 9 apply to Northern Ireland.

Liability to pay a CEP incurred before an assessment period begins

2.—(1) For the purposes of section 135(4)(b)(ii) of the 2004 Act (restrictions on winding up, discharge of liabilities etc), a prescribed liability is a liability of the trustees or managers of the scheme to pay a CEP which—

- (a) is incurred before the assessment date; and
- (b) has not been discharged before that date.

(2) A scheme incurs a liability to pay a CEP before the assessment date if, before that date, the trustees or managers of the scheme were required, or elected, to pay a CEP and had not discharged that liability before the assessment date.

(3) Where paragraph (1) applies, the trustees or managers of the scheme may discharge the prescribed liability to pay a CEP during the scheme’s assessment period.

Liability to pay a CEP incurred during an assessment period

3.—(1) For the purposes of section 135(4)(b)(ii) of the 2004 Act, a prescribed liability is a liability of the trustees or managers of the scheme to pay a CEP which is incurred during the assessment period.

(2) A scheme incurs a liability to pay a CEP on, or after, the assessment date if, on that date or during the assessment period, the trustees or managers of the scheme elect to pay a CEP.

(a) S.I. 2005/255 (N.I. 1). Part 3 of the Pensions (Northern Ireland) Order 2005 is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84 and in its application to multi-employer schemes by S.R. 2005 No. 91 (as amended by S.R. 2005 Nos. 194 and 357).

(b) S.I. 1996/1172.

(c) S.R. 1996 No. 493.

(d) Section 55 was amended by section 141(1) of, and paragraph 50 of Schedule 5 to, the Pensions Act 1995 and paragraph 7(1) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c.30) and S.I. 2005/2050.

(e) Section 51 was amended by Article 138(1) of, and paragraph 42 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995, paragraph 63 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, paragraph 7(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999 and S.I. 2005/3029.

Amendment of the Contracting-out Regulations - Great Britain

4. The Contracting-out Regulations(a) are amended as follows—

- (a) in regulation 51 (contributions equivalent premiums), after paragraph (1)(b), insert—

“(1ZA) But where a contributions equivalent premium is payable by the Board of the Pension Protection Fund, the prescribed person for the purposes of section 55(2) of the 1993 Act is the Board of the Pension Protection Fund.

(1ZB) In this Part, where paragraph (1ZA) applies—

 - (a) except in regulation 52(1), references to “the trustees of the scheme”, “the trustees” or “the trustees of a scheme” shall be read as references to “the Board of the Pension Protection Fund”; and
 - (b) references to “the resources of the scheme” shall be read as references to “the Pension Protection Fund being the Pension Protection Fund specified in section 173(1) of the 2004 Act (Pension Protection Fund)”.”; and
- (b) in regulation 52 (payment of a contributions equivalent premium), after paragraph (1)(c), insert—

“(1ZA) But where regulation 51(1ZA) applies, the Board of the Pension Protection Fund shall pay the contributions equivalent premium on or before whichever is the later of the following days—

 - (a) the day 6 months after the date the assessment period (construed in accordance with section 132 of the 2004 Act) ended; or
 - (b) the day one month after the day on which Her Majesty’s Revenue and Customs(d) sends to the person liable to pay the contributions equivalent premium a notice certifying the amount of the premium payable.”.

Amendment of the Contracting-out Regulations (NI) - Northern Ireland

5. The Contracting-out Regulations (NI)(e) are amended as follows—

- (a) in regulation 51 (contributions equivalent premiums), after paragraph (1)(f), insert—

“(1ZA) But where a contributions equivalent premium is payable by the Board of the Pension Protection Fund, the prescribed person for the purposes of section 51(2) of the Act is the Board of the Pension Protection Fund.

(1ZB) In this Part, where paragraph (1ZA) applies—

 - (a) except in regulation 52(1), references to “the trustees of the scheme”, “the trustees” or “the trustees of a scheme” shall be read as references to “the Board of the Pension Protection Fund”; and
 - (b) references to “the resources of the scheme” shall be read as references to “the Pension Protection Fund being the Pension Protection Fund specified in section 173(1) of the Pensions Act 2004 (Pension Protection Fund)”.”; and
- (b) in regulation 52 (payment of a contributions equivalent premium), after paragraph (1)(g), insert—

(a) Part 6 was amended by S.I. 1997/786, 1998/1397, 2002/681, 2005/2050 and 3377 and 2006/778. *See also* section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(b) Regulation 51(1) was substituted with regulation 51(1) to (1C) by S.I. 2002/681.

(c) Regulation 52(1) was amended by S.I. 2002/681.

(d) The functions of the Commissioners of Inland Revenue (“the former Commissioners”) were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c.11). *See also* section 50 of that Act in relation to the construction of references to the former Commissioners in other enactments.

(e) Part 6 was amended by S.R. 1997 No. 160, 1998 No. 208 and 2005 No. 433, and S.I. 2002/681, 2005/3029 and 3377 and 2006/778. *See also* Article 3(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

(f) Regulation 51(1) was substituted with regulation 51(1) to (1C) by S.I. 2002/681.

(g) Regulation 52(1) was amended by S.I. 2002/681.

“(1ZA) But where regulation 51(1ZA) applies, the Board of the Pension Protection Fund shall pay the contributions equivalent premium on or before whichever is the later of the following days—

- (a) the day 6 months after the date the assessment period (construed in accordance with Article 116 of the 2005 Order) ended, or
- (b) the day one month after the day on which Her Majesty’s Revenue and Customs sends to the person liable to pay the contributions equivalent premium a notice certifying the amount of the premium payable.”.

Circumstances in which a CEP ceases to be payable by the Board of the Pension Protection Fund - Great Britain

6.—(1) For the purposes of section 56(8)(b) of the 1993 Act (provisions supplementary to s. 55), the prescribed requirement where a CEP in respect of an earner ceases to be payable is that the earner is entitled to compensation under Schedule 7 to the 2004 Act (pension compensation provisions).

(2) But paragraph (1) does not apply where the earner’s entitlement to compensation is under paragraph 20 of Schedule 7 to the 2004 Act (compensation in respect of scheme right to transfer payment or contribution refund).

Circumstances in which a CEP ceases to be payable by the Board of the Pension Protection Fund - Northern Ireland

7.—(1) For the purposes of section 52(9)(b) of the 1993 NI Act (provisions supplementary to s. 51), the prescribed requirement where a CEP in respect of an earner ceases to be payable is that the earner is entitled to compensation under Schedule 6 to the 2005 Order (pension compensation provisions).

(2) But paragraph (1) does not apply where the earner’s entitlement to compensation is under paragraph 20 of Schedule 6 to the 2005 Order (compensation in respect of scheme right to transfer payment or contribution refund).

Deduction of a CEP from compensation payable - Great Britain

8. Where a CEP is payable by the Board of the Pension Protection Fund by virtue of a transfer under section 161 of the 2004 Act (effect of Board assuming responsibility for a scheme), section 61 of the 1993 Act(a) (deduction of contributions equivalent premium from refund of scheme contributions) shall be modified as if after subsection (11) there were inserted—

“(12) Subsections (13) to (15) apply where—

- (a) an earner’s service in contracted-out employment ceases on or after the beginning of an assessment period (construed in accordance with section 132 of the Pensions Act 2004);
- (b) the earner is entitled to compensation under paragraph 20 of Schedule 7 to the Pensions Act 2004 (compensation in respect of scheme right to transfer payment or contribution refund) (“the compensation”); and
- (c) a contributions equivalent premium falls to be paid by the Board of the Pension Protection Fund (“the Board”) in respect of that earner.

(13) The Board shall be entitled to deduct from the compensation payable to the earner an amount equal to so much of the premium as is attributable to any actual reductions of primary Class 1 contributions.

(14) The Board—

(a) Section 61 was amended by paragraph 55 of Schedule 5 to the Pensions Act 1995, paragraph 5(2) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19) and paragraph 12 of Schedule 12 to the Pensions Act 2004.

- (a) shall reduce the compensation payable by the amount referred to in subsection (13); and
- (b) may delay payment of the compensation for the purposes of calculating the amount to be deducted.

(15) Where the period taken into account in calculating the amount referred to in subsection (13) does not coincide with that in respect of which the compensation is payable, the amount that shall be deducted under that subsection shall be determined by reference to so much of that amount and of the compensation as are referable to the same period.”.

Deduction of a CEP from compensation payable - Northern Ireland

9. Where a CEP is payable by the Board of the Pension Protection Fund by virtue of a transfer under Article 145 of the 2005 Order (effect of Board assuming responsibility for a scheme), section 57 of the 1993 NI Act(a)(deduction of contributions equivalent premium from refund of scheme contributions) shall be modified as if after subsection (11) there were inserted—

“(11A) Subsections (11B) to (11D) apply where—

- (a) an earner’s service in contracted-out employment ceases on or after the beginning of an assessment period (construed in accordance with Article 116 of the Pensions (Northern Ireland) Order 2005);
- (b) the earner is entitled to compensation under paragraph 20 of Schedule 6 to the Pensions (Northern Ireland) Order 2005 (compensation in respect of scheme right to transfer payment or contribution refund) (“the compensation”); and
- (c) a contributions equivalent premium falls to be paid by the Board of the Pension Protection Fund (“the Board”) in respect of that earner.

(11B) The Board shall be entitled to deduct from the compensation payable to the earner an amount equal to so much of the premium as is attributable to any actual reductions of primary Class 1 contributions.

(11C) The Board—

- (a) shall reduce the compensation payable by the amount referred to in subsection (11B); and
- (b) may delay payment of the compensation for the purposes of calculating the amount to be deducted.

(11D) Where the period taken into account in calculating the amount referred to in subsection (11B) does not coincide with that in respect of which the compensation is payable, the amount that shall be deducted under that subsection shall be determined by reference to so much of that amount and of the compensation as are referable to the same period.”.

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

13th March 2007

James Purnell
Minister of State,
Department for Work and Pensions

(a) Section 57 was amended by paragraph 47 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 66 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, paragraph 6(2) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 and paragraph 8 of Schedule 10 to the Pensions (Northern Ireland) Order 2005.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the payment of a contributions equivalent premium (“CEP”) under section 55(2) of the Pension Schemes Act 1993 (c.48) or section 51(2) of the Pension Schemes (Northern Ireland) Act 1993 (c.49), when an assessment period has begun in relation to an occupational pension scheme or when the Board of the Pension Protection Fund (“the Board”) has assumed responsibility for the scheme.

A CEP is payable where a member of a scheme which has contracted-out of the state additional pension scheme leaves the scheme. Where the Board pays a CEP in respect of a member, compensation paid from the Pension Protection Fund in respect of a scheme right to a transfer payment or contribution refund shall be reduced to reflect this.

Regulation 2 applies where, before an assessment period (within the meaning of section 132 of the Pensions Act 2004 (c.35)) begins in relation to a scheme, the trustees or managers had already become liable to pay a CEP, but had not discharged their liability to do so. They may pay a CEP during the assessment period.

Regulation 3 applies where a member’s service ceases during the assessment period. The trustees or managers may elect to pay a CEP in respect of him.

Regulation 4 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) to prescribe that the Board is required to discharge its liability to pay a CEP where it has such a liability, the period in which the Board is to discharge such a liability and that the CEP will be paid out of the Pension Protection Fund rather than the resources of a scheme.

Regulation 5 makes provision for Northern Ireland similar to regulation 4 in respect of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 493).

Regulation 6 prescribes the circumstances where a CEP ceases to be payable by the Board.

Regulation 7 makes provision for Northern Ireland similar to regulation 6.

Regulation 8 modifies the application of section 61 of the Pension Schemes Act 1993 (deduction of contributions equivalent premium from refund of scheme contributions) to deal with where the Board pays a CEP and the member is also entitled to compensation under paragraph 20 of Schedule 7 to the Pensions Act 2004 (compensation in respect of scheme right to transfer payment or contribution refund).

Regulation 9 makes provision for Northern Ireland similar to regulation 8 in respect of section 57 of the Pension Schemes (Northern Ireland) Act 1993.

These Regulations have only a negligible impact on business, charities and the voluntary sector. Publication of a full Regulatory Impact assessment is not necessary for such legislation.

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