STATUTORY INSTRUMENTS

2014 No. 1711

The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014

PART 13

The Pension Protection Fund

Interpretation

42.—(1) In this Part—

"administration levy" is a levy imposed in accordance with section 117(1) of the 2004 Act (administration levy);

"admissible rules" has the meaning given by paragraph 35(2) of Schedule 7 to the 2004 Act (scheme rules, admissible rules etc)(**1**);

"assessment date" has the meaning given by section 142(1) of the 2004 Act (sections 140 and 141: interpretation);

"employer" has the meaning given by section 318(1) of the 2004 Act (general interpretation), including the extensions to that meaning made by—

(a) regulation 1(4) of the Entry Rules Regulations (citation, commencement and interpretation)(**2**); and

(b) in relation to a non-segregated scheme or a multi-employer section of a segregated scheme, regulation 1(5) of those Regulations(**3**);

"the Entry Rules Regulations" means the Pension Protection Fund (Entry Rules) Regulations 2005(**4**);

"fraud compensation levy" has the same meaning as in section 189(1) of the 2004 Act;

"the Fraud Compensation Levy Regulations" means the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006;

"initial levy" has the same meaning as in section 174(1) of the 2004 Act;

"non-segregated scheme" has the meaning given by regulation 1(3) of the Entry Rules Regulations;

"the PPF Miscellaneous Regulations" means the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006(**5**);

"pension protection levy" has the meaning given by section 175(1) of the 2004 Act (pension protection levies);

(**1**) Paragraph 35(2) was amended by section 122 of and Schedule 8 to the 2008 Act.
(**2**) Regulation 1(4) was substituted by S.I. 2005/2113.
(**3**) Regulation 1(5) was substituted by S.I. 2005/2113 and amended by S.I.s 2010/725 and 2011/2973.
(**4**) S.I. 2005/590.
(**5**) S.I. 2006/580.

"the relevant Pension Protection Fund provisions" means—

(a) Part 2 of the 2004 Act (the Board of the Pension Protection Fund) (except section 172(6) of that Act (relationship with fraud compensation regime)) and any instrument made under that Part;

(b) Part 3 of Schedule 5 (proceedings and delegation etc) and Schedule 7 (pension compensation provisions) to the 2004 Act and any instrument made under those provisions;

(c) Chapter 1 of Part 3 (pension compensation on divorce etc) of and Schedule 5 (pension compensation payable on discharge of pension compensation credit) to the Pensions Act 2008(**6**) and any instrument made under those provisions; and

(d) any provision corresponding to the provisions mentioned in sub-paragraph (a), (b) or (c) in force in Northern Ireland;

"relevant time" means the date in relation to which the value of the assets and liabilities of the eligible scheme is calculated;

"segregated scheme" has the meaning given by regulation 1(2) of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 (citation, commencement and interpretation)(**7**);

(2) Where, by virtue of any provision of regulations made under section 307(1) of the 2004 Act, the relevant Pension Protection Fund provisions apply or applied to a scheme as if a section or segregated part of an occupational pension scheme were a separate scheme—

(a) this Part also so applies; and

(b) "admissible rules", "employer", "member" and "trustees or managers of the scheme" must be read accordingly.

Eligibility: schemes treated as money purchase schemes

43.—(1) Subject to paragraph (3), where the Board considers that the conditions specified in paragraph (2) are met in relation to an occupational pension scheme—

(a) an occupational pension scheme which would otherwise be an eligible scheme is not an eligible scheme in relation to any period before 1st April 2015;

(b) the scheme becomes an eligible scheme on 1st April 2015; and

(c) the relevant Pension Protection Fund provisions apply in relation to the scheme with effect from that date.

(2) The conditions specified in this paragraph are that immediately before the appointed day—

(a) the scheme included benefits which are not money purchase benefits; and

(b) the trustees or managers of the scheme treated the scheme as if it were a money purchase scheme and, for that reason, was not an eligible scheme.

(3) Paragraph (1)(b) and (c) does not apply where—

(a) the scheme falls within the description of schemes which are not eligible schemes specified in regulation 2 of the Entry Rules Regulations (schemes which are not eligible schemes)(**8**);

(b) an insolvency event has occurred in relation to the employer in relation to the scheme before 1st April 2015; or

(**6**) 2008 c. 30.
(**7**) S.I. 2005/441.
(**8**) Regulation 2 was amended by S.I.s 2005/993, 2005/2153, 2006/580, 2007/782, 2008/731, 2009/1906, 2010/196, 2010/725 and 2011/2973 .

(c) the trustees or managers of the scheme have during the period beginning with the appointed day and ending immediately before 1st April 2015, entered into a legally enforceable agreement, the effect of which is to reduce the amount of any debt due to the scheme under section 75 of the 1995 Act (deficiencies in the assets)(**9**) which may be recovered by, or on behalf of, the trustees or managers of the scheme.

(4) Paragraph (3)(b) applies in relation to a multi-employer scheme that is a non-segregated scheme as if the reference to "the employer in relation to the scheme" were a reference to the employer who is the only remaining employer in relation to that scheme.

(5) Paragraph (3)(c) does not apply where the conditions specified in regulation 2(3)(a) or (b) of the Entry Rules Regulations would be met if the scheme had been an eligible scheme in the period beginning with the appointed day and ending immediately before 1st April 2015.

(6) In this regulation, "insolvency event" has the meaning given by section 121 of the 2004 Act (insolvency event, insolvency date and insolvency practitioner)(**10**).

Validity of valuations etc, determinations, transfer notices and discharge of benefits before the appointed day

44.—(1) Where the conditions specified in paragraph (2) are met, no provision of Part 4 of the Act or of these Regulations affects the validity, in relation to any period before the appointed day, of—

(a) a valuation obtained by the Board in accordance with section 143(2)(b) (Board's obligation to obtain valuation of assets and protected liabilities)(**11**), section 152(9) or (10A) (duty to assume responsibility following reconsideration)(**12**) or section 158(3)(b) (duty to assume responsibility for closed schemes)(**13**) of the 2004 Act;

(b) a determination made by the Board under section 143(2)(a), section 152(3) or section 158(3)(a) of that Act;

(c) a protected benefits quotation accompanying an application made in accordance with section 151(1) of that Act (application for reconsideration);

(d) the Board's approval of a valuation made with respect to a scheme in accordance with section 144(2)(a) of that Act (approval of valuation)(**14**);

(e) a valuation provided by the trustees or managers of an occupational pension scheme to the Board in accordance with section 156 of that Act (valuations of closed schemes) or regulations made under that section;

(f) audited scheme accounts prepared or provided for any of the purposes of Part 2 of the 2004 Act or of regulations made under that Part;

(g) a direction given by the Board under section 134 of that Act (directions);

(h) a transfer notice (within the meaning of section 160(2) of that Act (transfer notice)) given (at any time) by the Board to the trustees or managers of the scheme; or

(i) the discharge of benefits specified in paragraph (3) which were treated by the trustees or managers of the scheme as if they were money purchase benefits.

(2) The conditions specified in this paragraph are that—

(**9**) Section 75(1) to (4C) was substituted for subsections (1) to (4) of that section as originally enacted by section 271(1) and (2) of the Pensions Act 2004 (c. 35) ("the 2004 Act"). Subsections (6A) to (6D) were inserted by section 271(1) and (5) of that Act and section 271(3), (4) and (6) of that Act amended other parts of section 75.
(**10**) Section 121 was amended by S.I.s 2005/2893 and 2009/1941.
(**11**) Section 143(2) was substituted by section 22 of and Schedule 4 to the Act.
(**12**) Section 152(10A) was inserted by section 22 of and Schedule 4 to the Act.
(**13**) Section 158(3) was substituted by section 22 of and Schedule 4 to the Act.
(**14**) Section 144(2) was amended by section 22 of and Schedule 4 to the Act.

(a) an assessment period or further assessment period in relation to the scheme began before the appointed day; and

(b) the Board is satisfied that immediately before the beginning of that assessment period or further assessment period—

(i) the scheme included any of the benefits specified in paragraph (3); and

(ii) the trustees or managers of the scheme treated benefits specified in paragraph (3) as if they were money purchase benefits.

(3) The benefits specified in this paragraph are—

(a) cash balance benefits;

(b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits);

(c) top-up benefits; and

(d) pensions derived from any of the benefits specified in sub-paragraphs (a) to (c) or from money purchase benefits.

Schemes which become eligible schemes: provision of valuations to determine scheme underfunding

45.—(1) Where the conditions specified in regulation 43(2) (eligibility: schemes treated as money purchase schemes) are met in relation to an occupational pension scheme, the trustees or managers of the scheme must obtain and provide an actuarial valuation of the scheme ("the first valuation") for the purposes of section 179 of the 2004 Act (valuations to determine scheme underfunding) to the Board, or to the Regulator on the Board's behalf, on or before 31st March 2015.

(2) The relevant time of the first valuation must be within the period beginning with the appointed day and ending with 31st March 2015.

(3) For the purposes of that valuation, the assets and the protected liabilities of the scheme must be calculated as if the scheme were an eligible scheme, in accordance with regulations 5 (valuation of assets)(**15**), 6 (valuation of protected liabilities)(**16**) and 7 (alternative valuation of assets and protected liabilities in specific cases)(**17**) of the Pension Protection Fund (Valuation) Regulations 2005(**18**).

(4) The relevant time of any subsequent actuarial valuation for the purposes of section 179 of the 2004 Act must be no more than 3 years after the relevant time of the first valuation provided to the Board or to the Regulator on the Board's behalf.

(5) The trustees or managers of the scheme must provide any subsequent valuation for the purposes of section 179 of that Act to the Board, or to the Regulator on the Board's behalf, within a period of 15 months beginning immediately after the relevant time of the valuation.

(6) In this regulation "protected liabilities" means the cost of securing benefits for and in respect of members of the scheme which correspond to the compensation which would be payable, in relation to the scheme, in accordance with the pension compensation provisions (see section 162 of the 2004 Act (the pension compensation provisions)) if the scheme were an eligible scheme for which the Board were to assume responsibility.

Provision of information: schemes and benefits treated as money purchase

46.—(1) This regulation applies—

(**15**) Regulation 5 was amended by S.I. 2006/580.
(**16**) Regulation 6 was amended by S.I.s 2005/993, 2007/782, 2012/3083 and 2013/627.
(**17**) Regulation 7 was amended by S.I.s 2012/3083 and 2013/627.
(**18**) S.I. 2005/672.

(a) in the case of a scheme which is an eligible scheme on the appointed day, where the trustees or managers of the scheme have, before the appointed day, excluded liabilities relating to benefits which are not money purchase benefits from a valuation under section 179 of the 2004 Act because those liabilities were treated as if they related to money purchase benefits; or

(b) where the trustees or managers of a scheme which includes liabilities relating to benefits which are not money purchase benefits have not, before the appointed day, carried out valuations under section 179 of that Act because they treated the scheme as if it were a money purchase scheme.

(2) Where this regulation applies, the trustees or managers of the scheme must, on or before 31st March 2015, inform the Regulator that the scheme includes benefits which are not money purchase benefits but have been treated as money purchase benefits.

(3) Where—

(a) paragraph (1)(a) of this regulation applies; and

(b) the scheme is an eligible scheme on the appointed day,

the Board, or the Regulator on the Board's behalf, may direct the trustees or managers of the scheme to provide any information or documents relevant to the calculation of the levies in relation to the scheme.

(4) Information or documents relevant to the calculation of the levies includes, in particular—

(a) accounts in relation to the scheme;

(b) actuarial reports in relation to the scheme; and

(c) actuarial valuations in relation to the scheme.

(5) The Board or the Regulator on the Board's behalf may revoke or vary any direction given under paragraph (3).

(6) Where a direction under paragraph (3) given to the trustees or managers of a scheme is not complied with, section 10 of the 1995 Act (civil penalties)(**19**) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance with the direction.

Eligible schemes including benefits treated as money purchase benefits: initial levy and pension protection levies

47.—(1) For the purposes of the initial levy and the pension protection levies, where the conditions specified in paragraph (2) are met, and subject to paragraph (4), no provision of Part 4 of the Act or of these Regulations—

(a) affects the validity of an actuarial valuation, the relevant time of which is before the appointed day, and which is provided to the Board, or the Regulator on the Board's behalf (whether before, on or after the appointed day), in accordance with section 179 of the 2004 Act;

(b) requires the trustees or managers of an eligible scheme to obtain or provide a further or revised actuarial valuation in respect of a financial year before 1st April 2015;

(c) affects the validity of any calculation or determination by the Board in relation to the amount of a pension protection levy or initial levy imposed on a scheme in respect of a financial year before 1st April 2015;

(**19**) Section 10 was amended by sections 319(1)and 320 of and Schedule 12 to the 2004 Act and by section 18 of and paragraph 11 of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30) ("the 1999 Act").

(d) permits the Board, or the Regulator on the Board's behalf, to increase the amount of a pension protection levy payment which has been notified to the trustees or managers of a scheme in respect of a financial year before 1st April 2015;

(e) prevents recovery by the Board, or by the Regulator on the Board's behalf, of a debt due in respect of a pension protection levy or initial levy which—

(i) has arisen in accordance with sections 181(6) (calculation, collection and recovery of levies) or 181A(3) (pension protection levy: interest for late payment)(**20**) of the 2004 Act; and

(ii) relates to an amount payable in respect of a financial year before 1st April 2015.

(2) The conditions specified in this paragraph are that the Board is satisfied that at the relevant time of the valuation provided to the Board, or to the Regulator on the Board's behalf, in accordance with section 179 of that Act—

(a) the scheme included any of the benefits specified in paragraph (3);

(b) the trustees or managers of the scheme treated benefits specified in paragraph (3) as if they were money purchase benefits; and

(c) the amount of a pension protection levy or initial levy due in respect of the scheme has been calculated on the basis that benefits specified in paragraph (3) which were treated by the trustees or managers of the scheme as if they were money purchase benefits were money purchase benefits.

(3) The benefits specified in this paragraph are—

(a) cash balance benefits;

(b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits);

(c) top-up benefits; and

(d) pensions derived from any of the benefits specified in sub-paragraphs (a) to (c) or from money purchase benefits.

(4) Paragraph (1) is subject to the power of the Board, or the Regulator on the Board's behalf, to direct the trustees or managers of an eligible scheme to obtain and provide an out-of-cycle valuation under regulation 49(1) (eligible schemes including benefits which become non-money purchase: power to direct out-of-cycle valuations).

Schemes which become eligible schemes: administration levy and pension protection levies: periods after the appointed day

48.—(1) The trustees or managers of an occupational pension scheme which becomes an eligible scheme on 1st April 2015 in accordance with regulation 43(1)(b) are liable to pay the administration levy and the pension protection levy in respect of the scheme with effect from that date.

(2) The trustees or managers of the scheme must pay the amount of the administration levy and the pension protection levy notified by the Board, or by the Regulator on the Board's behalf, within the period of 28 days beginning with the date on which the Board or the Regulator gives notification of the amounts to the trustees or managers.

(3) In the case of the late payment of the pension protection levy under this regulation, interest is to be charged in accordance with regulation 19A of the PPF Miscellaneous Regulations (interest for late payment of the pension protection levy)(**21**), unless the Board has granted a waiver under those Regulations.

(**20**) Section 181A was inserted by section 129 of and Schedule 10 to the Pensions Act 2008 (c.30) ("the 2008 Act").
(**21**) Regulation 19A was inserted by S.I. 2010/560.

Eligible schemes including benefits which become non-money purchase: power to direct out-of-cycle valuations

49.—(1) Where the conditions specified in regulation 47(2) apply to an occupational pension scheme, the Board, or the Regulator on the Board's behalf, may direct the trustees or managers of the scheme to obtain and provide to the Board an out-of-cycle valuation in relation to the scheme for any financial year beginning on 1st April 2015, 2016 or 2017.

(2) Where the Board, or the Regulator on the Board's behalf, exercises the power to direct the trustees or managers of an occupational pension scheme to obtain and provide an out-of-cycle valuation, the Board may, having regard to that valuation, calculate or recalculate a pension protection levy payment in relation to that scheme in respect of any financial year beginning on any date specified in paragraph (1).

(3) The trustees or managers of the scheme must pay the amount of the pension protection levy notified by the Board, or by the Regulator on the Board's behalf, within the period of 28 days beginning with the date on which the Board or the Regulator gives notification of the amount of the levy to the trustees or managers.

(4) In the case of the late payment of the pension protection levy notified to the trustees or managers by the Board, or by the Regulator, under paragraph (3), interest is to be charged in accordance with regulation 19A of the PPF Miscellaneous Regulations, unless the Board has granted a waiver under those Regulations.

(5) Where the amount of the pension protection levy notified by the Board or the Regulator to the trustees or managers of the scheme is less than an amount previously notified to, and paid by, the trustees or managers in respect of the same financial year, the Board must repay the difference between the two amounts to the trustees or managers.

(6) Where the Board, or the Regulator on the Board's behalf, directs the trustees or managers of the scheme to obtain and provide an out-of-cycle valuation, the relevant time of any subsequent actuarial valuation for the purposes of section 179 of the 2004 Act must be within the period of three years beginning immediately after the relevant time of the out-of-cycle valuation.

(7) The Board, or the Regulator on the Board's behalf, may revoke or vary any direction given under paragraph (1).

(8) Where a direction under paragraph (1) given to the trustees or managers of a scheme is not complied with, section 10 of the 1995 Act (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance with the direction.

(9) In this regulation, an "out-of-cycle valuation" means a valuation which has a relevant time which is—

(a) after the appointed day; and

(b) within the period of three years beginning immediately after the relevant time of the last actuarial valuation for the purposes of section 179 of the 2004 Act (whether the relevant time of that valuation was before, on or after the appointed day).

Waiver of Fraud Compensation Levy: periods before the appointed day

50.—(1) Where the conditions specified in paragraph (2) are met, a waiver by the Board of payment of an amount due in relation to any fraud compensation levy imposed under section 189 of the 2004 Act (fraud compensation levy), in accordance with regulation 7 of the Fraud Compensation Levy Regulations (waiver)(**22**), applies as if the scheme had been a money purchase scheme at the time of the waiver.

(2) The conditions specified in this paragraph are that—

(**22**) S.I. 2006/558.

(a) the fraud compensation levy payment was due in respect of a period before the appointed day;

(b) the trustees or managers of the scheme confirmed in writing to the Board that the conditions specified in regulation 7(1) of the Fraud Compensation Levy Regulations were met during that period; and

(c) the Board is satisfied that during that period—

(i) the scheme included cash balance benefits or pensions derived from money purchase or cash balance benefits;

(ii) the scheme included no benefits other than benefits falling within paragraph (i), money purchase benefits or death benefits; and

(d) the trustees or managers of the scheme treated the scheme as if it were a money purchase scheme.

Discharge of cash equivalent of benefits treated as money purchase

51. Where—

(a) before the appointed day, the conditions specified in regulation 30(3) (cash equivalent of cash balance benefits etc treated as money purchase benefits: transitional arrangements) are met in relation to a member of an occupational pension scheme; and

(b) an assessment period begins in relation to the scheme,

the Board may secure the discharge of the cash equivalent of the member's accrued rights to benefits specified in regulation 30(1)(a) which were treated by the trustees or managers of the scheme as money purchase benefits as if those benefits were money purchase benefits.

Schemes continuing as closed schemes after an assessment period

52.—(1) This regulation applies where—

(a) an assessment period in relation to an occupational pension scheme began before the appointed day; and

(b) the scheme is authorised (whether before, on or after the appointed day) to continue as a closed scheme under section 153(5) of the 2004 Act (closed schemes).

(2) Subject to paragraph (5), where the conditions specified in paragraph (3) are met, the trustees or managers of the scheme may determine that benefits specified in paragraph (4) which were treated by the trustees or managers of the scheme as if they were money purchase benefits should continue to be treated as money purchase benefits.

(3) The conditions specified in this paragraph are that—

(a) the scheme provides any of the benefits specified in paragraph (4); and

(b) the trustees or managers of the scheme, immediately before the assessment period began, treated those benefits as if they were money purchase benefits.

(4) The benefits specified in this paragraph are—

(a) cash balance benefits;

(b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits);

(c) top-up benefits; and

(d) pensions derived from any of the benefits specified in sub-paragraphs (a) to (c) or from money purchase benefits.

(5) Where the Board has made a determination or a direction under any of the relevant Pension Protection Fund provisions or these Regulations that benefits specified in paragraph (4) should or should not be treated as money purchase benefits—

(a) paragraph (2) does not apply; and

(b) the trustees or managers of the scheme must treat those benefits in accordance with the direction or determination of the Board.

Discharge as money purchase liabilities: periods before the appointed day

53.—(1) Where the Board or the trustees or managers of an occupational pension scheme have, before the appointed day, secured the discharge of liabilities in respect of any of the benefits specified in regulation 44(3) (validity of valuations etc, determinations, transfer notices and discharge of benefits before the appointed day) that discharge is to be regarded as having been made—

(a) where the Board has secured the discharge of those liabilities, in accordance with section 170 of the 2004 Act (discharge of liabilities in respect of money purchase benefits)(**23**); or

(b) where the trustees or managers of the scheme have secured the discharge of those liabilities, in accordance with regulation 2 of the Pension Protection Fund (Hybrid Schemes) (Modification) Regulations 2005 (discharge of liabilities in respect of money purchase benefits during the assessment period)(**24**).

(2) Where paragraph (1)(a) or (b) applies, the relevant Pension Protection Fund provisions apply in relation to the liabilities discharged and the assets applied towards their discharge as if they were liabilities for, and assets applied towards, money purchase benefits.

Discharge as money purchase liabilities: periods after the appointed day

54.—(1) Where—

(a) an assessment period or further assessment period in relation to an eligible scheme has begun before the appointed day; and

(b) the Board is satisfied that benefits which have accrued in accordance with the admissible rules of the scheme include any of the benefits specified in regulation 44(3);

the Board may determine, in the circumstances specified in paragraph (2), that benefits specified in regulation 44(3) treated by the trustees and managers of the scheme as if they were money purchase benefits are to be treated as money purchase benefits for the purposes of the relevant Pension Protection Fund provisions.

(2) The circumstances specified in this paragraph are that the Board is satisfied—

(a) that, immediately before that assessment period or further assessment period began, the trustees or managers of the scheme treated those benefits as money purchase benefits; and

(b) that it is reasonable in the circumstances to treat those benefits as money purchase benefits for the purposes of the relevant Pension Protection Fund provisions.

Closed schemes: Board's assumption of responsibility after the appointed day

55.—(1) This regulation applies where—

(a) an assessment period in relation to an occupational pension scheme began before the appointed day;

(**23**) Section 170(3) was omitted by, and section 170(4) amended by, SI 2011/1730.
(**24**) S.I. 2005/449.

(b) the scheme is authorised (whether before, on or after the appointed day) to continue as a closed scheme under section 153(5) of the 2004 Act (closed schemes);

(c) there is a further assessment period in relation to the scheme; and

(d) the Board assumes responsibility for the scheme in accordance with section 158(1) of the 2004 Act.

(2) Where the conditions specified in paragraph (3) are met, the Board may determine that the liabilities in relation to benefits specified in regulation 52(4) (schemes continuing as closed schemes after an assessment period) which were treated as money purchase benefits are to be treated as money purchase benefits for the purposes of the relevant Pension Protection Fund provisions.

(3) The conditions specified in this paragraph are that—

(a) the scheme included any of the benefits specified in regulation 52(4); and

(b) either—

(i) the trustees or managers of the scheme have determined in accordance with regulation 52(2) (schemes continuing as closed schemes after an assessment period) that benefits specified in regulation 52(4) should continue to be treated as money purchase benefits; or

(ii) the trustees or managers of the scheme have, in accordance with regulation 52(5)(b), treated those benefits as money purchase benefits in accordance with a determination or a direction made by the Board.

Discharge as money purchase benefits: scheme right to transfer payment or contribution refund

56.—(1) Where the Board is satisfied that—

(a) the pensionable service of a member of an eligible scheme has terminated on the commencement of an assessment period;

(b) as a result, on the appointed day the member has rights under the admissible rules to—

(i) a transfer payment calculated by reference to the value of the benefits which have accrued to the member under the scheme; or

(ii) a cash payment calculated by reference to the amount of contributions made by the member or on the member's behalf to the scheme;

(c) Chapter 5 of Part 4 of the 1993 Act (early leavers: cash transfer sums and contribution refunds) does not apply to the member;

(d) the member does not have relevant accrued rights to benefit under the scheme (within the meaning of section 101AA(4) of that Act (scope of Chapter 5)(**25**);

(e) the rights specified in sub-paragraph (b) relate to any of the benefits specified in sub-paragraphs (a) to (d) of regulation 44(3) (whether or not they also relate to other benefits); and

(f) immediately before an assessment period or further assessment period in relation to the eligible scheme began, the trustees or managers of the scheme treated benefits specified in sub-paragraphs (a) to (d) of regulation 44(3) as if they were money purchase benefits,

the Board may determine that those benefits are to be treated, for the purposes of the relevant Pension Protection Fund provisions, as money purchase benefits.

(2) In this regulation "transfer payment" means a payment to another occupational pension scheme or a personal pension scheme in respect of the member's rights under the scheme.

(**25**) Section 101AA was inserted by section 264 of the 2004 Act.

Discharge of pensions in payment derived from additional voluntary contributions treated as money purchase benefits: periods after the appointed day

57.—(1) Where the conditions specified in paragraph (2) are met in relation to a member's pension in payment under an occupational pension scheme, the Board may give the trustees or managers of an eligible scheme a direction regarding the exercise of the trustees or managers' power to determine that the member's pension or part of a pension should be discharged as if it were money purchase benefits (see regulation 17 (discharge of pensions in payment derived from additional voluntary contributions treated as money purchase benefits: scheme commencing winding up on or after the appointed day)).

(2) The conditions specified in this paragraph are that—

(a) the assessment date or further assessment date in relation to an eligible scheme is on or after the appointed day;

(b) the pension or part of a pension is derived from additional voluntary contributions;

(c) the pension or part of a pension is derived from any of the benefits specified in sub-paragraphs (a) to (c) of regulation 44(3) or from money purchase benefits;

(d) the pension or part of a pension comes into payment on or before 1st April 2015;

(e) pensions in payment which satisfied the conditions specified in sub-paragraphs (b) and (c) were, before the appointed day, treated by the trustees or managers of the scheme as money purchase benefits; and

(f) the Board is satisfied that it is reasonable in the circumstances to treat the pension or part of a pension as money purchase benefits.

(3) Where the Board directs the trustees or managers of an eligible scheme, in accordance with paragraph (1), that a pension or part of a pension should be discharged as if it were money purchase benefits, the relevant Pension Protection Fund provisions apply as if the pension or part of a pension discharged were a money purchase benefit.

Modification of the Pension Protection Fund (Entry Rules) Regulations 2005

58.—(1) The Entry Rules Regulations(**26**) are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation)—

(a) after the definition of "the 1995 Act" insert—

> ""the appointed day" is the day appointed for the coming into force of section 29 of the Pensions Act 2011 (definition of money purchase benefits);";

(b) after the definition of "the Authority", insert—

> ""cash balance benefits" has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;".

(3) After regulation 2(2) (schemes which are not eligible schemes)(**27**) insert—

> "(2A) Except as otherwise provided in paragraphs (3) and (4) of this regulation, an occupational pension scheme which becomes an eligible scheme in accordance with regulation 43(1)(b) of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014 (eligibility: schemes treated as money purchase schemes) is not an eligible scheme if—

(**26**) S.I. 2005/590.
(**27**) Regulation 2(2) was amended by S.I.s 2005/993 and 2005/2153.

(a) the trustees or managers of the scheme during the period beginning with the appointed day and ending immediately before 1st April 2015 have entered into a legally enforceable agreement; and

(b) the effect of that agreement (at any time) is to reduce the amount of any debt due to the scheme under section 75 of the 1995 Act (deficiencies in the assets) which may be recovered by, or on behalf of, the trustees or managers of the scheme.”.

(4) In regulation 2(3) and (4), for “paragraph (2)” substitute “paragraphs (2) and (2A)”.

(5) In regulation 21 (refusal to assume responsibility – schemes which become eligible schemes)(**28**)—

(a) in paragraph (1)(a) omit “and”; and

(b) at the end of paragraph (1)(b) insert—

“and

(c) in the case of a scheme which becomes an eligible scheme on 1st April 2015 in accordance with regulation 43(1)(b) of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014—

(i) where the date on which an assessment period began is less than three years after 1st April 2015, be the period beginning on 1st April 2015 and ending with the assessment date; or

(ii) where the date on which an assessment period began is at least three years after 1st April 2015, be the period of three years preceding the date on which that assessment period began.”.

Modification of the Pension Protection Fund (Compensation) Regulations 2005 where there is no provision for a survivor’s pension

59. In a case where—

(a) immediately before the assessment date—

(i) under the admissible rules of an eligible scheme a member is entitled to present payment of a pension under an occupational pension scheme; and

(ii) that pension does not include the provision of a survivor’s pension in the event of the member’s death;

(b) the member is entitled, from the assessment date, to compensation under paragraph 3 or 5 (pension benefits postponed at assessment date) of Schedule 7 to the 2004 Act; and

(c) the member dies on or after the assessment date,

regulation 3 of the Pension Protection Fund (Compensation) Regulations 2005 (circumstances where a widow or widower is not entitled to payment of periodic compensation)(**29**) has effect as if for paragraph (b) there were substituted—

“(b) no provision to pay a survivor’s pension—

(i) under the admissible rules of the scheme; or

(ii) because the member has chosen a pension under the scheme which does not include the provision of a survivor’s pension.”.

(**28**) Regulation 21 was amended by S.I.s 2005/993 and 2010/196.
(**29**) S.I. 2005/670.

Amendment of the Pension Protection Fund (Compensation) Regulations 2005

60.—(1) The Pension Protection Fund (Compensation) Regulations 2005 are amended as follows.

(2) After regulation 13 (manner of determining the revaluation percentage in the case of active members who have not attained normal pension age at assessment date)(**30**) insert—

"**Active members below normal pension age: cases where it is unclear whether pensionable service is attributable to periods on or after 6th April 2009**

13A.—(1) This regulation applies for the purposes of paragraph 12(3A)(b) of Schedule 7 to the Act (cases where it is unclear whether pensionable service is attributable to periods before 6th April 2009) in the case of active members who have not attained normal pension age at the assessment date.

(2) Where this regulation applies, in any case where it is unclear whether any particular pensionable service (either actual or notional) falls, or is to be treated for the purposes of the scheme as falling, on or after 6th April 2009, the Board may determine as best as it is able, having regard to the admissible rules and all the circumstances of the case, how much of the service or notional service concerned should be treated for the purposes of paragraph 12(3)(b) of Schedule 7 to the Act as having occurred on or after 6th April 2009.".

(3) After regulation 15 (manner of determining the higher revaluation percentage in the case of deferred members who have not attained normal pension age at assessment date)(**31**) insert—

"**Deferred members below normal pension age: cases where it is unclear whether pensionable service is attributable to periods on or after 6th April 2009**

15ZA.—(1) This regulation applies where it is unclear whether—

(a) pensionable service is attributable to periods before, or on or after 6th April 2009, in the case of deferred members and pension credit members who have not attained normal pension age or normal benefit age at the assessment date;

(b) any particular pensionable service (whether actual or notional) falls, or is to be treated as falling, for the purposes of the scheme, on or after 6th April 2009; or

(c) pension credit rights are to be treated for the purposes of the scheme as derived from rights attributable to pensionable service of the transferor (whether actual or notional) falling or to be treated as falling on or after 6th April 2009.

(2) Where this regulation applies, the Board may determine as best as it is able, having regard to the admissible rules and all the circumstances of the case, how much of the service or notional service concerned should be treated for the purposes of paragraph 17(3)(b) of Schedule 7 to the Act as having occurred on or after 6th April 2009.".

(4) In regulation 15B (determination of the revaluation percentage in respect of certain periods)(**32**)—

(a) after paragraph (3) insert—

"(3A) Where this regulation applies and it is unclear whether any particular—

(a) pensionable service (whether actual or notional) is to be treated for the purposes of the scheme as service falling before 31st March 2011 (to be revalued in

(**30**) Regulation 13 was amended by S.I. 2011/554.
(**31**) Regulation 15 was amended by S.I.s 2009/809 and 2011/554.
(**32**) Regulation 15B was inserted by S.I 2011/554.

accordance with paragraph (2)), or service falling on or after that date (to be revalued in accordance with paragraph (3)); or

(b) pension credit rights are derived from rights attributable to pensionable service of the transferor (whether actual or notional) falling before 31st March 2011, or from rights attributable to pensionable service falling on or after that date,

revaluation shall be determined in accordance with regulations 13 and 15 as modified by paragraphs (4) to (6).";

(b) after paragraph (5) insert—

"(6) For the purposes of paragraph (3A) regulations 13 and 15 are modified as follows—

(a) each regulation becomes paragraph (1) of that regulation; and

(b) after paragraph (1) of each regulation, insert—

"(2) In any case where it is unclear whether—

(a) any particular pensionable service (whether actual or notional) is to be treated for the purposes of the scheme as service falling before 31st March 2011, or service falling on or after that date; or

(b) pension credit rights are derived from rights attributable to pensionable service of the transferor (whether actual or notional) falling before 31st March 2011, or from rights attributable to pensionable service falling on or after that date,

the Board may determine as best as it is able, having regard to the admissible rules and all the circumstances of the case, how much of the service or notional service concerned should be treated for the purposes of this regulation as having occurred before 31st March 2011 and how much on or after that date.".".

(5) In regulation 25 (cash balance schemes: modification of paragraphs 5, 15 and 19 of Schedule 7 to the Act)(**33**)—

(a) in the heading, for "paragraphs 5, 15 and 19" substitute "paragraphs 3, 5, 8, 10, 11, 14, 15, 19, 22 and 37";

(b) in paragraph (1) omit the words after "cash balance scheme" to the end of the paragraph;

(c) for paragraph (2) substitute—

"(2) In their application to cash balance benefits or to a pension derived from cash balance benefits, the provisions of Schedule 7 to the Act have effect with the following modifications—

(a) paragraph 3 (pensions in payment at assessment date) has effect as if—

(i) in sub-paragraph (3), after "The annual rate of the periodic compensation is" there were inserted "subject to sub-paragraph (3A)"; and

(ii) after sub-paragraph (3) there were inserted—

"(3A) In a case where—

(a) the pension is derived from money purchase benefits or cash balance benefits;

(b) there is no requirement or discretion under the admissible rules to increase the pension; and

(c) the pension is not required to be increased in accordance with section 51 of the Pensions Act 1995,

(**33**) Regulation 25 was amended by S.I. 2010/560.

the annual rate of the periodic compensation is the protected pension rate.";

(iii) in sub-paragraph (5), for "sub-paragraph (3)" there were substituted "sub-paragraphs (3) and (3A)".

(b) paragraph 5 (pension benefits postponed at assessment date) has effect as if—

(i) in sub-paragraph (3), after "The annual rate of the periodic compensation is" there were inserted "subject to sub-paragraphs (3A) and (3B)";

(ii) after sub-paragraph (3) there were inserted—

"(3A) In a case where—

(a) the postponed pension is derived from money purchase benefits or cash balance benefits;

(b) there is no requirement or discretion under the admissible rules to increase the pension; and

(c) the pension is not required to be increased in accordance with section 51 of the Pensions Act 1995,

the annual rate of the periodic compensation is to be determined in accordance with sub-paragraph (3B).

(3B) In a case falling within sub-paragraph (3A) the annual rate of the periodic compensation is—

(a) where the commencement of periodic compensation under this paragraph has not been postponed for any period by virtue of paragraph 25A, 100% of the protected pension rate; or

(b) where the commencement of periodic compensation has been so postponed, 100% of the aggregate of the protected pension rate and the amount of the actuarial increase under paragraph 25A.";

(iii) in sub-paragraph (4) for "In sub-paragraph (3)" there were substituted "In sub-paragraphs (3) and (3B)";

(iv) after sub-paragraph (4) there were inserted—

"(4A) In any case where the Board is satisfied that it is not possible to determine on the basis referred to in sub-paragraph (4) what would have been the annual rate of the pension, the "protected pension rate" shall mean what the Board may, having regard to the admissible rules, determine would have been the annual rate of pension if the postponement of pension had ceased immediately before the assessment date."; and

(v) in sub-paragraph (5) after "(4)" there were inserted "or (4A)";

(c) paragraph 8 (active members over normal pension age at assessment date) has effect as if—

(i) for sub-paragraph (5) there were substituted—

"(5) Subject to sub-paragraph (5A), the accrued amount means an amount equal to such initial annual rate of pension to which the member would have been entitled under the admissible rules when the pensionable service relating to the pension ended.

(5A) In any case where the Board is satisfied that it is not possible to identify the initial annual rate of pension on the basis referred to in sub-paragraph (5), the Board may, having regard to the admissible rules, determine the accrued amount in accordance with actuarial factors published by the Board."; and

(ii) sub-paragraphs (6) and (7) were omitted;

(d) paragraph 10 has effect as if—

(i) for sub-paragraph (4) there were substituted—

"(4) Subject to sub-paragraph (4A), the accrued amount means an amount equal to such amount of scheme lump sum to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to the scheme lump sum ended.

(4A) In any case where the Board is satisfied that it is not possible to identify the amount of the scheme lump sum on the basis referred to in sub-paragraph (4), the Board may, having regard to the admissible rules, determine the accrued amount in accordance with actuarial factors published by the Board.";

(ii) sub-paragraphs (5), (6) and (7) were omitted;

(e) paragraph 11 (active members who have not attained normal pension age at assessment date) has effect as if—

(i) for sub-paragraph (5) there were substituted—

"(5) Subject to sub-paragraph (5A), the accrued amount means an amount equal to such initial annual rate of pension to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to the pension ended.

(5A) In any case where the Board is satisfied that it is not possible to identify the initial annual rate of pension on the basis referred to in sub-paragraph (5), the Board may, having regard to the admissible rules, determine the accrued amount in accordance with actuarial factors published by the Board."; and

(ii) sub-paragraphs (6) and (7) were omitted;

(f) paragraph 14 has effect as if —

(i) for sub-paragraph (5) there were substituted—

"(5) Subject to sub-paragraph (5A), the accrued amount means an amount equal to such scheme lump sum to which the member would have been entitled under the admissible rules had the member attained normal pension age when the pensionable service relating to the scheme lump sum ended.

(5A) In any case where the Board is satisfied that it is not possible to identify the amount of the scheme lump sum on the basis referred to in sub-paragraph (5), the Board may, having regard to the admissible rules, determine the accrued amount in accordance with actuarial factors published by the Board.";

(ii) sub-paragraphs (6) and (7) were omitted;

(g) paragraph 15 (deferred members who have not attained normal pension age at assessment date) has effect as if—

(i) at the beginning of sub-paragraph (5) there were inserted "Subject to sub-paragraph (5A)"; and

(ii) after sub-paragraph (5) there were inserted—

"(5A) In any case where the Board is satisfied that it is not possible to determine on the basis referred to in sub-paragraph (5) what would have been the initial annual rate of the pension, the accrued amount shall mean an amount equal to such initial annual rate as the Board may, having regard to the admissible rules and in accordance with actuarial factors published by the Board, determine the deferred member would have been entitled to had normal pension age been the actual age attained by the deferred member when the pensionable service relating to the lump sum ended.";

(h) paragraph 19 has effect as if—

(i) at the beginning of sub-paragraph (5) there were inserted "Subject to sub-paragraph (5A)"; and

(ii) after sub-paragraph (5) there were inserted—

"(5A) In any case where the Board is satisfied that it is not possible to determine on the basis referred to in sub-paragraph (5) what would have been the amount of the scheme lump sum, the accrued amount shall mean an amount equal to such scheme lump sum amount as the Board may, having regard to the admissible rules and in accordance with actuarial factors published by the Board, determine the deferred member would have been entitled to had normal pension age been the actual age attained by the deferred member when the pensionable service relating to the lump sum ended.";

(i) paragraph 22 (survivors who do not meet conditions for scheme benefits at assessment date) has effect as if—

(i) at the beginning of sub-paragraph (3)(a) there were inserted "subject to sub-paragraph (3A)"; and

(ii) after sub-paragraph (3) there were inserted——

"(3A) In any case where the Board is satisfied that it is not possible to identify the initial rate of pension mentioned in sub-paragraph (3)(a), the Board may, having regard to the admissible rules, determine the initial rate of the compensation in accordance with actuarial factors published by the Board.";

(j) paragraph 37(1) has effect as if after "In this Schedule—" there were inserted—

""cash balance benefit" has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;""

(d) after paragraph (2), insert—

"(3) In this regulation—

"cash balance benefit" has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014; and

"cash balance scheme" means a scheme which provides cash balance benefits, whether or not the scheme also provides other benefits.".

Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005

61. In the Schedule to the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005(**34**) in the first column of paragraph 16C (paragraphs 16C, 16D, 16E and 16F)(**35**) of the table—

(a) omit "and"; and

(b) at the end insert ", 16G, 16H and 16I".

(**34**) S.I. 2005/669.
(**35**) Paragraph 16C was inserted by S.I. 2011/731.