STATUTORY INSTRUMENTS

2016 No. 294

PENSIONS

The Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2016

Made - - - -	*3rd March 2016*
Laid before Parliament	*7th March 2016*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 113(1) and (3), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(**1**), sections 74(2) and (3)(e), 91(5)(c)(iii), 124(1) and 174(2) and (3) of the Pensions Act 1995(**2**), sections 122(5), 129(1)(b), (1A)(b) and (3), 130(5)(b), 135(4), 138(9B), 170(2), 315(2), (4) and (5) and 318(1) of, and paragraphs 24(1) and (2), 25(1) and 33 of Schedule 7 to, the Pensions Act 2004(**3**) and section 83 of the Pension Schemes Act 2015(**4**).

In accordance with section 185(1) of the Pension Schemes Act 1993(**5**), section 120(1) of the Pensions Act 1995 and section 317(1) of the Pensions Act 2004, the Secretary of State for Work and Pensions has consulted such persons as he considers appropriate.

(**1**) 1993 c. 48. Paragraph (ca) of section 113(1) was inserted by section 52(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19). There are amendments to section 181(1) not relevant to these Regulations. Section 181(1) is cited for the meaning it gives to "prescribed" and "regulations". Section 183(1) was amended by paragraph 79 of Schedule 5 paragraph 15(a) of Schedule 6 and Parts III and IV of Schedule 7 to the Pensions Act 1995 (c. 26) ("the 1995 Act").

(**2**) 1995 c. 26. Section 74(2) was amended by section 270(2)(b) of the Pensions Act 2004 (c. 35), and section 74(3)(e) was inserted by section 270(2)(c) of that Act. Section 91(5) was amended by paragraph 57(4)(a) of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30); there are other amendments to section 91(5) but none is relevant. Section 124(1) is cited for the meaning it gives to "prescribed" and "regulations".

(**3**) 2004 c. 35. The Pensions Act 2004 is modified in its application to multi-employer schemes by S.I. 2005/441, as amended by S.I.s 2005/993 and 2005/2113; there are other amendments to S.I. 2005/441 but none is relevant. Section 129 is modified for certain cases by regulations 17(3) and 65(1) of S.I. 2005/441 to read as if subsection (1A)(b) were inserted. Section 129(1)(b) is cited in its unmodified form. Sections 135(4)(za) and 138(9B) were inserted by sections 58(3) and 59(10), respectively, of the Pension Schemes Act 2015 (c. 8). Section 318(1) is cited for the meaning it gives to "prescribed" and "regulations". Paragraphs 24(1) and 25(1) of Schedule 7 were amended by paragraphs 25 and 19(3)(a), respectively, of Schedule 4 to the Pensions Act 2011 (c. 19).

(**4**) 2015 c. 8.

(**5**) Section 185(1) was amended by paragraph 46 of Schedule 3 and paragraph 80(a) of Schedule 5 to the 1995 Act.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2016 and come into force on 6th April 2016.

PART 2

Occupational pension schemes amendments

Amendments to the Occupational Pension Schemes (Winding Up) Regulations 1996

2.—(1) The Occupational Pension Schemes (Winding Up) Regulations 1996(**6**) are amended as follows.

(2) In regulation 6(2)(b) (arrangements for discharge of liabilities under s. 74), before paragraph (i) insert—

"(ai) in the way mentioned in regulation 8(6)(b)(i)(aa) in a case where the proposed lump sum is an uncrystallised funds pension lump sum for the purposes of Part 1 of Schedule 29 to the Finance Act 2004(**7**),".

(3) In regulation 8(6) (requirements to be satisfied by transferee schemes, annuities etc.)(**8**)—

(a) in sub-paragraph (a), for "Chapter 5 of Part 4" substitute "Chapter 2 of Part 4ZA"; and

(b) in sub-paragraph (b)(i)(aa), after "trivial commutation lump sum" insert ", an uncrystallised funds pension lump sum".

Amendment to the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997

3. In regulation 2(1B)(b) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (commutation of a pension under an occupational pension scheme)(**9**), for "from the employment of the employer in relation to the scheme," substitute "for the purposes of subsection (5)(c)(i) of that section, and".

PART 3

Pension Protection Fund amendments

Amendments to the Pension Protection Fund (Compensation) Regulations 2005

4.—(1) The Pension Protection Fund (Compensation) Regulations 2005(**10**) are amended as follows.

(**6**) S.I. 1996/3126.
(**7**) 2004 c. 12. *See* paragraph 4A of Schedule 29 (registered pension schemes: authorised lump sums: uncrystallised funds pension lump sum), which was inserted by paragraph 57 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30).
(**8**) Paragraph (6) of regulation 8 was inserted by S.I. 2005/706 and amended by S.I. 2009/2930.
(**9**) S.I. 1997/785. Paragraph (1B) of regulation 2 was inserted by S.I. 2006/744 and amended by S.I. 2015/493.
(**10**) S.I. 2005/670; relevant amending instruments are S.I.s 2006/580, 2007/782, 2010/560, 2013/627 and 2014/1711.

(2) In regulation 1(2) (interpretation)(**11**), for the definition of "PPF trivial commutation lump sum" substitute—

""PPF trivial commutation lump sum" has the meaning given in regulation 20(2) (circumstances in which the portion of compensation to be commuted may exceed 25 per cent);".

(3) In regulation 2(2) (circumstances where a person shall be entitled to early payment of compensation)(**12**), for sub-paragraph (b) substitute—

"(b) that on the date on which the compensation is to become payable early the person has attained—

(i) except in a case to which paragraph (ii) applies, normal minimum pension age as defined in section 279(1) of the 2004 Act(**13**);

(ii) in a case where the person has a protected pension age of less than 50 by virtue of paragraph 22 of Schedule 36 to the 2004 Act (rights to take benefit before normal minimum pension age)(**14**), the age of 50.".

(4) In regulation 19 (commutation of periodic compensation)(**15**)—

(a) in paragraph (1), for "paragraphs (2) and (3)" substitute "paragraph (2)"; and

(b) omit paragraph (3).

(5) In regulation 25(3) (cash balance schemes: modification of Schedule 7 to the Act)(**16**), for "In this regulation" substitute "In this Part".

(6) In Part 10, after regulation 25(**17**) insert—

"**Cash balance schemes: modification of Schedule 7 to the Act**

25A.—(1) In its application to a cash balance scheme, paragraph 37 of Schedule 7 to the Act (other definitions)(**18**) applies as if, after sub-paragraph (4) there were inserted—

"(5) In this Schedule references to a lump sum to which a person is entitled, or which a person has been paid, by reason of commuting part of a pension under the scheme include any lump sum to which the person is entitled, or which the person has been paid, by reason of opting to receive a lump sum instead of a pension, or part of a pension, in respect of cash balance benefits under the scheme.".

(2) In its application to a cash balance scheme other than a scheme to which regulation 25 applies, paragraph 37(1) of Schedule 7 to the Act applies as if, before the definition of "deferred member" 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(**19**);".".

(**11**) The definition of "PPF trivial commutation lump sum" was inserted by S.I. 2006/580; there are other amendments to regulation 1(2) but none is relevant.
(**12**) Sub-paragraph (b) of regulation 2(2) was substituted by S.I. 2010/560.
(**13**) *See* regulation 1(2) of S.I. 2005/670 for the meaning of "the 2004 Act".
(**14**) Paragraph 22 was amended by paragraphs 54 and 55 of Schedule 10 to the Finance Act 2005 (c. 7), paragraph 43 of Schedule 23 to the Finance Act 2006 (c. 25), paragraph 432 of Schedule 1 to the Corporation Tax Act 2010 (c. 4) and paragraph 7 of Schedule 5 to the Finance Act 2014 (c. 26).
(**15**) Regulation 19(1) was amended by S.I. 2006/580. Paragraph (3) of regulation 19 was inserted by S.I. 2006/580 and amended by S.I.s 2013/627 and 2007/782. There are other amendments to regulation 19 but none is relevant.
(**16**) Paragraph (3) of regulation 25 was inserted by S.I. 2014/1711.
(**17**) Regulation 25 was amended by S.I.s 2010/560 and 2014/1711.
(**18**) *See* regulation 1(2) of S.I. 2005/670 for the meaning of "the Act". There is an amendment to paragraph 37 not relevant to these Regulations.
(**19**) S.I. 2014/1711.

Amendments to the Pension Protection Fund (Entry Rules) Regulations 2005

5.—(1) The Pension Protection Fund (Entry Rules) Regulations 2005(**20**) are amended as follows.

(2) In regulation 1 (interpretation)(**21**)—

(a) in paragraph (3)—

(i) after the definition of "EEA regulator", insert—

""establishment" has the meaning given in Article 2 of the Insolvency Regulation;"; and

(ii) after the definition of "home state regulator", insert—

""the Insolvency Regulation" means Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings(**22**);"; and

(b) after paragraph (6), insert—

"(7) In these Regulations, references to the centre of a person's main interests are to be construed in accordance with Article 3 of the Insolvency Regulation.".

(3) In regulation 5A (European insolvency event)(**23**)—

(a) omit paragraph (4); and

(b) for paragraph (5) substitute—

"(5) In this regulation "insolvency proceedings" and "liquidator" each has the meaning given by Article 2 of the Insolvency Regulation.".

(4) For regulation 7 (applications and notifications to the Board)(**24**), substitute—

"**Applications and notifications to the Board**

7.—(1) Except in a case to which regulation 7A applies, the prescribed requirement for the purposes of section 129(1)(b) and (4)(b) of the Act (applications and notifications for the purposes of section 128)(**25**) is that at least one of paragraphs (2), (4) and (5) applies to the employer.

(2) This paragraph applies to an employer if it is not—

(a) an individual;

(b) a company as defined in section 1(1) of the Companies Act 2006(**26**);

(c) a company which may be wound up under Part 5 of the Insolvency Act 1986 (unregistered companies)(**27**);

(d) a partnership; or

(e) a relevant body as defined in regulation 5(2).

(3) For the purposes of paragraph (2)(c), an employer which is a company incorporated outside the United Kingdom is to be regarded as a company which may be wound up under Part 5 of the Insolvency Act 1986.

(**20**) S.I. 2005/590; relevant amending instruments are S.I.s 2005/993, 2005/2113, 2005/2153, 2005/2224, 2009/451, 2010/2628, 2012/917, 2014/1664 and 2014/1711.
(**21**) Regulation 1 was amended by S.I.s 2005/2113, 2005/2153, 2009/451, 2010/2628, 2011/99, 2012/917, 2014/1711 and 2015/575. There are other amendments to regulation 1 but none is relevant.
(**22**) OJ L 160 30.6.2000, p. 1.
(**23**) Regulation 5A was inserted by S.I. 2014/1664.
(**24**) Regulation 7 was amended by S.I.s 2005/2153 and 2009/451.
(**25**) *See* regulation 1(3) of S.I. 2005/590 for the meaning of "the Act".
(**26**) 2006 c. 46.
(**27**) 1986 c. 45.

(4) This paragraph applies to an employer if it is an EEA insurer or an EEA credit institution.

(5) This paragraph applies to an employer if—

(a) the centre of the employer's main interests is situated within the territory of a member State other than the United Kingdom;

(b) insolvency proceedings have been opened against the employer in a member State in accordance with Article 3 of the Insolvency Regulation; and

(c) the employer does not have an establishment in the United Kingdom.

(6) In this regulation references to a member State do not include Denmark.".

(5) In regulation 7A (applications and notifications to the Board – multi-employer schemes)(**28**), for paragraph (2) substitute—

"(2) In the case of a scheme, or a section of a scheme, to which this regulation applies, the prescribed requirement for the purposes of section 129(1A)(b) and (4)(a)(ii) of the Act (applications and notifications for the purposes of section 128) is that at least one of paragraphs (3), (5) and (6) applies to the employer.

(3) This paragraph applies to an employer if it is not—

(a) an individual;

(b) a company as defined in section 1(1) of the Companies Act 2006;

(c) a company which may be wound up under Part 5 of the Insolvency Act 1986;

(d) a partnership; or

(e) a relevant body as defined in regulation 5(2).

(4) For the purposes of paragraph (3)(c), an employer which is a company incorporated outside the United Kingdom is to be regarded as a company which may be wound up under Part 5 of the Insolvency Act 1986.

(5) This paragraph applies to an employer if it is an EEA insurer or an EEA credit institution.

(6) This paragraph applies to an employer if—

(a) the centre of the employer's main interests is situated within the territory of a member State other than the United Kingdom;

(b) insolvency proceedings have been opened against the employer in a member State in accordance with Article 3 of the Insolvency Regulation; and

(c) the employer does not have an establishment in the United Kingdom.

(7) In this regulation references to a member State do not include Denmark.".

(6) In regulation 8 (applications and notifications to the Board – further provision)(**29**)—

(a) for paragraph (1), substitute—

5.—"(1) Except in a case to which regulation 8A applies, the prescribed period for making an application to the Board under section 129(1) of the Act (applications and notifications for the purposes of section 128) shall be the period of—

(a) 28 days; or

(b) such longer period of not more than three months as the Board may determine is reasonable in the circumstances of a particular case,

(**28**) Regulation 7A was inserted by S.I. 2005/2153 and amended by S.I. 2009/451.
(**29**) Regulation 8(1) was amended by S.I. 2005/2153. There are other amendments to regulation 8 but none is relevant.