Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. ***

EXITING THE EUROPEAN UNION
PENSIONS

The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(**1**).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2018 and come into force on exit day.

PART 2

Amendment of primary legislation

Amendment of the Pension Schemes Act 1993

2.—(1) The Pension Schemes Act 1993(**2**) is amended as follows.

(**1**) 2018 c. 16.
(**2**) 1993 c. 48.

(2) In section 1 (categories of pension schemes)(**3**), in subsection (1), in the definition of "occupational pension scheme" omit paragraph (b) and the "and" before it.

(3) In section 19 (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts)(**4**), in subsection (4)(a)(i) omit "or any other EEA State".

(4) In section 149 (procedure on an investigation)(**5**), in subsection (6)—

(a) in paragraph (l), omit ", EEA central counterparty" and ", EEA CSD", and

(b) in paragraph (n), omit "other than the United Kingdom".

(5) In section 158A (other disclosures by the Secretary of State)(**6**), in the table in subsection (1), in the entry beginning "A recognised investment exchange"—

(a) in column 1 omit ", EEA central counterparty" and ", EEA CSD", and

(b) in column 2, for the words from "or central securities depository" to the end of the entry substitute ", central securities depository or central counterparty".

(6) In section 165 (application of certain provisions to cases with foreign element)(**7**), in subsection (7), for "territory of the member States" substitute "United Kingdom".

(7) In section 180A (insurer and long-term insurance business)(**8**), in subsection (1) omit paragraph (b) and the "or" before it.

Amendment of the Pensions Act 1995

3.—(1) The Pensions Act 1995(**9**) is amended as follows.

(2) In section 49 (other responsibilities of trustees, employers, etc), in subsection (8A)—

(a) omit paragraph (b), and

(b) in paragraph (c), omit the words after "Bank of England".

Amendment of the Welfare Reform and Pensions Act 1999

4.—(1) The Welfare Reform and Pensions Act 1999(**10**) is amended as follows.

(2) In Schedule 5 (pension credits: mode of discharge), in paragraph 6(2)(a), omit "or any other EEA state".

Amendment of the Pensions Act 2004

5.—(1) The Pensions Act 2004(**11**) is amended as follows.

(2) In section 73 (inspection of premises), in subsection (2)(a), in the list of provisions—

(a) in the parenthetical description of section 253, for "non-European" substitute "non-UK", and

(b) omit "Part 7 (cross-border activities within European Union);".

(**3**) Section 1 was amended by section 239 of the Pensions Act 2004 (c. 35) and S.I. 2007/3014.
(**4**) Section 19 was amended by S.I. 2001/3649, 2007/3014.
(**5**) Section 149 was amended by section 159(1) of the Pensions Act 1995 (c. 26), and paragraph 25(b) of Schedule 12 to the Pensions Act 2004 (c. 35), and S.I. 2001/3649, 2013/504, 2017/1064.
(**6**) Section 158A was inserted by paragraph 9 of Schedule 6 to the Pensions Act 1995 (c. 26) and amended by S.I. 2001/3649, 2017/1064.
(**7**) Section 165 was amended by paragraph 61(4)(a) of Schedule 1 to the Employment Rights Act 1996 (c. 18) and S.I. 2018/26.
(**8**) Section 180A was inserted by S.I. 2001/3649 and amended by paragraph 78(4) of Schedule 18 to the Financial Services Act 2012 (c. 21).
(**9**) 1995 c. 26; subsection (8A) of section 49 was inserted by S.I. 2001/3649 and amended by S.I. 2007/3014.
(**10**) 1999 c. 30; paragraph 6 of Schedule 5 was amended by S.I. 2001/3649, 2007/3014.
(**11**) 2004 c. 35.

(3) In section 87 (other permitted disclosures), in subsection (2)(h)(**12**), for "an EU obligation" substitute "retained EU law".

(4) In section 115 (borrowing), in subsection (3)(**13**), in the definition of "deposit-taker" omit paragraph (b) and the "or" before it.

(5) In section 201 (other permitted disclosures), in subsection (2)(g)(**14**), for "an EU obligation" substitute "retained EU law".

(6) In section 249A (requirement for internal controls)(**15**), omit subsection (4).

(7) In section 253 (non-European scheme to be trust with UK-resident trustee)(**16**)—

(a) in the heading, for "Non-European" substitute "Non-UK", and

(b) in subsections (1) and (6), for "EEA states" substitute "United Kingdom".

(8) In section 254 (representative of non-European scheme to be treated as trustee)(**17**)—

(a) in the heading, for "non-European" substitute "non-UK", and

(b) in subsection (1), for "EEA states" substitute "United Kingdom".

(9) Omit Part 7 (cross-border activities within European Union).

(10) In section 307(2) (modification of this Act in relation to certain categories of schemes) omit paragraph (f) and the "and" before it.

(11) In Schedule 3 (restricted information held by the Regulator) and Schedule 8 (restricted information held by the Board)(**18**), in the entry in the table relating to a recognised investment exchange, in the first column omit ", EEA CSD" and ", EEA central counterparty".

Amendment of the Pensions Act 2008

6.—(1) The Pensions Act 2008(**19**) is amended as follows.

(2) In section 18 (occupational pension schemes)—

(a) omit paragraph (b), and

(b) in paragraph (c), for "an EEA State" substitute "the United Kingdom".

(3) In section 99 (interpretation of Part 1), omit the definition of the "IORP Directive".

Amendment of the Pension Schemes Act 2015

7.—(1) The Pension Schemes Act 2015(**20**) is amended as follows.

(2) In section 42 (regulatory own fund schemes exempt from indexation), in subsection (3), for inserted subsections (9) and (10) substitute—

"(9) In subsection (1)(a)(ii) "regulatory own fund scheme" means a scheme where the scheme and not any employer in relation to that scheme—

(a) underwrites any liability to cover against biometric risk;

(b) guarantees an investment performance; or

(c) guarantees a level of benefits.

(**12**) Subsection (2) was amended by S.I. 2011/1043.
(**13**) Subsection (3) was amended by paragraph 104(2) of Schedule 18 to the Financial Services Act 2012 (c. 21).
(**14**) Subsection (2) was amended by S.I. 2011/1043.
(**15**) Subsection 249A was inserted by S.I. 2005/3379.
(**16**) Section 253 was amended by S.I. 2007/3014.
(**17**) Section 254 was amended by S.I. 2007/3014.
(**18**) Schedules 3 and 8 were amended by S.I. 2013/504, 2017/1064.
(**19**) 2008 c. 30.
(**20**) 2015 c. 8; section 42 is yet to be appointed.

(10) In subsection (9)—

"biometric risk" means liability risks linked to death, disability and longevity;

"employer" has the meaning given by section 318(1) of the Pensions Act 2004."

PART 3

Amendment of secondary legislation

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996

8.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996(**21**) are amended as follows.

(2) In regulation 1(2), in the definition of "overseas scheme", for "EEA states" substitute "United Kingdom".

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

9.—(1) The Contracting-out (Transfer and Transfer Payment) Regulations 1996(**22**) are amended as follows.

(2) In regulation 1(2), in the definition of "overseas scheme"—

(a) in paragraph (a), for "EEA states" substitute "United Kingdom";

(b) omit paragraph (b) and the "or" before it.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996

10.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996(**23**) are amended as follows.

(2) In regulation 1(2), in the definition of "qualifying insurance policy" omit paragraph (b) and the "or" before it.

(3) In regulation 11—

(a) in paragraph (3)(a) omit "or the central bank of another EEA State";

(b) omit paragraph 4(a).

(4) In regulation 15, omit paragraph (2)(a)(ii) and the "or" before it.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996

11.—(1) The Occupational Pension Schemes (Winding Up) Regulations 1996(**24**) are amended as follows.

(2) In regulation 10, omit paragraph (1)(d).

(**21**) S.I. 1996/1172; amended by S.I. 2007/814, 2007/3014, 2011/1245, 2015/1677; there are other amending instruments but none is relevant.
(**22**) S.I. 1996/1462; amended by S.I. 2007/814, 2007/3014, 2016/200; there are other amending instruments but none is relevant.
(**23**) S.I. 1996/1715; amended by S.I. 2006/778, 2015/575; there are other amending instruments but none is relevant.
(**24**) S.I. 1996/3126; amended by S.I. 2006/467; there are other amending instruments but none is relevant.

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997

12.—(1) The Occupational Pension Schemes (Discharge of Liability) Regulations 1997(**25**) are amended as follows.

(2) In regulation 2—

(a) omit paragraph (1)(b) and the "or" before it;

(b) in paragraph (2), for "Sub-paragraphs (a) and (b)" substitute "Sub-paragraph (a)".

Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000

13.—(1) The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(**26**) are amended as follows.

(2) In regulation 11—

(a) omit paragraph (1)(b) and the "or" before it;

(b) in paragraph (2), omit "and (b)".

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000

14.—(1) The Pension Sharing (Pension Credit Benefit) Regulations 2000(**27**) are amended as follows.

(2) In regulation 5—

(a) omit paragraph (3)(b) and the "or" before it;

(b) in the opening words of paragraph (4), omit "and (b)".

Amendment of the Stakeholder Pension Schemes Regulations 2000

15.—(1) The Stakeholder Pension Schemes Regulations 2000(**28**) are amended as follows.

(2) In regulation 1(3), in the definition of "insurer" omit paragraph (b) and the "or" before it.

Amendment of the Register of Occupational and Personal Pension Schemes Regulations 2005

16.—(1) The Register of Occupational and Personal Pension Schemes Regulations 2005(**29**) are amended as follows.

(2) In regulation 1(4), omit the definition of "scheme undertaking cross-border activities".

(3) In regulation 2(1), omit sub-paragraph (c) and the "or" before it.

(4) In regulation 3(1), omit sub-paragraph (j) and the "and" before it.

Amendment of the Pension Protection Fund (Appointment of Ordinary Members) Regulations 2005

17.—(1) The Pension Protection Fund (Appointment of Ordinary Members) Regulations 2005(**30**) are amended as follows.

(**25**) S.I. 1997/784; amended by S.I. 2001/3649; there are other amending instruments but none is relevant.
(**26**) S.I. 2000/1053; amended by S.I. 2001/3649; there are other amending instruments but none is relevant.
(**27**) S.I. 2000/1054; amended by S.I. 2001/3649; there are other amending instruments but none is relevant.
(**28**) S.I. 2000/1403; amended by S.I. 2001/3649; there are other amending instruments but none is relevant.
(**29**) S.I. 2005/597; amended by S.I. 2006/467, 2018/1102; there are other amending instruments but none is relevant.
(**30**) S.I. 2005/616.