

2009 No. 451

PENSIONS

The Pension Protection Fund (Miscellaneous Amendments) Regulations 2009

| | |
|-------------------------------|-----------------------|
| <i>Made</i> - - - - - | <i>2nd March 2009</i> |
| <i>Laid before Parliament</i> | <i>9th March 2009</i> |
| <i>Coming into force</i> - | <i>1st April 2009</i> |

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 129(1)(b) and (1A)(b), 130(5)(b), 138(12), 143(4) and (5), 151(9)(b), 156(2), 163(3), 166(5) and (6), 179(3), 315(2), (4) and (5) and 318(1) of, and paragraph 33 of Schedule 7 to, the Pensions Act 2004(a).

Except for regulation 5(5), the Secretary of State has consulted such persons as the Secretary of State considers appropriate in accordance with section 317(1) of that Act.

Regulation 5(5) is made using the power in section 166(6) of that Act, which came into force on 1st March 2009. In accordance with section 317(2)(c), the Secretary of State is not required to consult on regulation 5(5) because it is made before the end of the period of six months beginning with the coming into force of section 166(6).

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Miscellaneous Amendments) Regulations 2009 and shall come into force on 1st April 2009.

[Regulation 2 amends regulations 1, 7, 10, 17 and 25 of S.I. 2005/590.]

[Regulation 3 amends regulation 15 of S.I. 2005/670.]

[Regulation 4 amends regulation 1 of S.I. 2005/672.]

[Regulation 5 amends regulations 3, & 4, and insert reg. 4A into S.I. 2006/580.]

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

2nd March 2009

William D. McKenzie
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) 2004 c. 35. Section 129 was modified by S.I. 2005/441 for certain cases to read as if subsection (1A)(b) is inserted. S.I. 2005/441 was amended by S.I. 2005/2113. Section 318(1) is cited for the meaning it gives to “prescribed” and “regulations”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to Regulations relating to the Pension Protection Fund.

Regulation 2 amends the Pension Protection Fund (Entry Rules) Regulations 2005 (S.I. 2005/590) to—

- prescribe European Economic Area credit institutions and insurers as further categories of employer that can make an application to the Board of the Pension Protection Fund (“the Board”) (regulation 2(2), (3) and (4)(b) and (c));
- correct a missing cross reference (regulation 2(4)(a));
- extend the circumstances in which the Board can make payments in respect of certain scheme members who have died (regulation 2(5)(a));
- provide that the Board can pay contributions refunds and death benefits in respect of certain scheme members, despite them having died before an assessment period starts (regulation 2(5)(b)); and
- adopt the recognised auditing concept of a ‘true and fair view’ rather than a ‘true and fair value’ in audited scheme accounts (regulation 2(6)).

Regulation 3 inserts new provisions into the Pension Protection Fund (Compensation) Regulations 2005 (S.I. 2005/670). Those new provisions modify the way in which Schedule 7 to the Pensions Act 2004 (c. 35) applies to schemes that do not contain any rules on revaluation of benefits. Those modifications ensure that the Board does not revalue members’ benefits when the scheme it becomes responsible for does not revalue the benefits of both active and deferred members.

Regulations 4 and 6 make the same change as regulation 2(6). They amend respectively the Pension Protection Fund (Valuation) Regulations 2005 (S.I. 2005/672) and the Pension Protection Fund (Closed Schemes) Regulations 2007 (S.I. 2007/865) to adopt the recognised auditing concept of a ‘true and fair view’.

Regulation 5(2), (3) and (4) makes the same change as regulation 2(5)(b).

Regulation 5(5) amends the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 (S.I. 2006/580). It inserts a new regulation 4A into those Regulations. That new regulation 4A requires the Board to pay 90% of certain transfer payments and contribution refunds to members of a pension scheme that has entered the Pension Protection Fund (“the Fund”). The transfer payments and contribution refunds are those which the member became entitled to before the assessment date, but which had not been paid by the date the pension scheme entered the Fund.

A full Impact Assessment has not been published for this instrument as it has only a negligible impact on the private and voluntary sectors.