

2005 No. 597

PENSIONS

The Register of Occupational and Personal Pension Schemes Regulations 2005

Made - - - - - *9th March 2005*
Laid before Parliament *10th March 2005(a)*
Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 59(2), 60(2)(h) and (3), 61(1), (2) and (3), 307(1), 315(2), (4) and (5) and 318(1) of the Pensions Act 2004**(b)** and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which these regulations are made**(c)**, makes the following Regulations:

Citation, commencement, extent and interpretation

1. —(1) These Regulations may be cited as the Register of Occupational and Personal Pension Schemes Regulations 2005, and shall come into force on 6th April 2005, subject to paragraph (2) below.

(2) Regulation 2 and this regulation in so far as it applies to regulation 2 shall come into force on 1st April 2005.

(3) Regulation 2 and this regulation in so far as it applies to regulation 2 extend to Northern Ireland.

(4) In these Regulations—

“the Act” means the Pensions Act 2004;

“Crown guarantee” in relation to a scheme, means a scheme in respect of which a relevant public authority has—

- (a) given a guarantee in relation to any part of the scheme, any benefits payable under the scheme rules or any member of the scheme, or
- (b) made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities;

“deferred member” and “pensioner member” have the meanings ascribed to them in section 124(1) of the Pensions Act 1995**(d)**;

(a) Amended by Correction Slip. The “Laid before Parliament” date should read “10th March 2005”

(b) 2004 c. 35; section 318(1) is cited because of the meaning ascribed to “prescribed” and “regulations”.

(c) See section 317(1) of the Pensions Act 2004 (“the Act”) which provides that the Secretary of State must consult such persons as he considers appropriate before he makes any regulations by virtue of the Act. By virtue of section 317(2)(c) this duty does not apply to regulations which are made before the end of the period of six months beginning with the coming into force of the provision of the Act by virtue of which they are made.

(d) 1995 c. 26; section 124(1) is amended by section 84(1) of, and paragraphs 43 and 61(1) and (2) of Part 1 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30), and by section 56 of, and paragraph 8(3) of Part 1 of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c. 19). “Active member” is defined in section 318(1) of the Act; that definition therefore also applies to these Regulations.

Regs. 1-2

Defn. of "scheme undertaking cross-border activities" inserted in reg. 1(4) and sub-para. (c) added to reg. 2(1) by reg. 4(2) & (3) of S.I. 2006/467 as from 30.3.06.

"public service pension scheme" has the meaning ascribed to it in section 1 of the Pension Schemes Act 1993(a) (categories of pension schemes) and section 1 of the Pension Schemes (Northern Ireland) Act 1993(b) (categories of pension schemes); "relevant public authority", in relation to a Crown guarantee, means—

- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975(c)),
- (b) a government department (including any body or authority exercising statutory functions on behalf of the Crown), or
- (c) the Scottish Ministers; and

► "scheme undertaking cross-border activities" means a scheme in relation to which the trustees or managers—

- (a) are proposing to apply for authorisation, or are authorised, under section 288 of the Act (general authorisation to accept contributions from European employers); or
- (b) are proposing to apply for approval, or are approved, under section 289 of the Act (approval in relation to particular European employer) in relation to a European employer; and◀

"trust scheme" means an occupational or personal pension scheme which is established under a trust.

Registrable scheme

2.—(1) A scheme which is of a description prescribed for the purposes of section 59(2) of the Act (register of occupational and personal pension schemes - prescribed description of "registrable schemes") is a scheme—

- (a) which -
 - (i) has more than one member, and
 - (ii) provides benefits which are not solely payable on the death of a member; and
- (b) which—
 - (i) prior to 6th April 2006, has received the approval of the Board of Inland Revenue for the purposes of section 590 or section 591 (other than subsection (2)(g)) of the Income and Corporation Taxes Act 1988(d) (conditions for approval of retirement benefit schemes and discretionary approval), or for the purposes of Chapter 4 of Part 14 of that Act (personal pension schemes),
 - (ii) is a public service pension scheme, or
 - (iii) on or after 6th April 2006, is or has been registered in accordance with section 153 of the Finance Act 2004(e) (registration of pension schemes) (or is treated as registered by virtue of Schedule 36).

►or

- (c) which—
 - (i) has such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1988 (exemption from tax in respect of certain pensions), and

(a) 1993 c. 48; the relevant amending instrument is S.I. 1999/1820.

(b) 1993 c. 49.

(c) 1975 c. 26.

(d) 1988 c. 1. Section 590 was amended by section 35 of, and paragraph 18 of Part 1 of Schedule 3 to, the Finance Act 1988 (c. 39); sections 75 and 187 of, and paragraphs 3 and 18(2) and (3) of Schedule 6, and Part 4 of Schedule 17 to, the Finance Act 1989 (c. 26); sections 34(2) to (4), 36(2) and (3) and 123 of, and Part 5 of Schedule 19 to, the Finance Act 1991 (c. 31); and section 79 of, and paragraphs 2(1) to (4) and (7) and (8) and 18(1) and (3) of Schedule 10 to, the Finance Act 1999 (c. 16). Section 591 was amended by section 146 of, and paragraph 6 of Part 1 of Schedule 13 to, the Finance Act 1988; sections 107(2) to (4) and 258 of, and Part 5 of Schedule 26 to, the Finance Act 1994 (c. 9); sections 59(2) and 60(1) of the Finance Act 1995 (c. 4); and section 79 of, and paragraphs (3)(a) and (b) and 18(1) and (3) of Schedule 10 to, the Finance Act 1999.

(e) 2004 c. 12.

(ii) is a scheme undertaking cross-border activities◀

(2) Sub-paragraphs (a)(ii) and (b)(i) and (ii) of paragraph (1) shall cease to have effect on 6th April 2006.

Registrable information

3.(1)—The information prescribed for the purposes of section 60(2)(h) of the Act (registrable information - other prescribed information) is—

- (a) the category of the scheme by reference to—
 - (i) whether the scheme is an occupational or a personal pension scheme,
 - (ii) whether the scheme is a public service pension scheme,
 - (iii) whether the scheme or any part of the scheme is protected by a Crown guarantee,
 - (iv) where the scheme is or is to be registered as a stakeholder pension scheme under section 2 of the Welfare Reform and Pensions Act 1999^(a) (registration of stakeholder pension schemes), whether the scheme is a trust scheme or is established in accordance with regulation 2 of the Stakeholder Pension Scheme Regulations 2000^(b) (manner of establishment);
 - (b) in the case of a personal pension scheme, the number of members of the scheme on the later of—
 - (i) the last day of the scheme year which ended most recently, and
 - (ii) the day on which the scheme became a registrable scheme;
 - (c) in the case of an occupational pension scheme, the numbers of active members, deferred members and pensioner members of the scheme on the later of—
 - (i) the last day of the scheme year which ended most recently, and
 - (ii) the day on which the scheme became a registrable scheme;
 - (d) in relation to the benefits provided under the scheme—
 - (i) whether any of those benefits are secured by a contract of insurance or annuity contract issued by an insurance company which provides administration services to the scheme, and
 - (ii) if so—
 - (aa) the name and address of the insurance company providing such a contract, and
 - (bb) the policy number of that contract or the insurance company reference number in relation to that contract;
 - (e) the nature of the business of any relevant employer; and
 - (f) in the case of a trust scheme which is in the process of being wound up, the date on which the winding up commenced.
- ▶¹(g) in the case where an occupational pension scheme in respect of which a recovery plan has been prepared under section 226 of the Act begins to wind up during the recovery period, the date on which the winding up commenced.◀

¹Reg. 3(1)(g) added and para. (4) substituted by reg. 4(2)(a) & (b) of S.I. 2006/1733 as from 24.7.06.

(2) The reference in paragraph (1)(f) above to the date on which the winding up of a trust scheme commenced is to be construed in accordance with Part 1 of the Pensions Act 1995^(c).

(3) Where the scheme is a multi-employer scheme, for the purposes of sub-paragraph (1)(e), section 60(4) of the Act shall be modified so as to have effect as if for the words “the employer” in the definition of “relevant employer” there were substituted the words “an employer”.

- ▶¹(4) In this regulation—
“multi-employer scheme” means a trust scheme in relation to which there is more than one employer;

(a) 1999 c. 30.

(b) S.I. 2000/1403; the relevant amending instrument is S.I. 2001/104.

(c) 1995 c. 26. *see* section 124(3A) to (3E).

“recovery period” means the period specified in the scheme’s recovery plan in accordance with section 226(2)(b) of the Act.◀

- (5) For the purposes of section 60(2)(g)(i) and of this regulation, “scheme year” means—
- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if no year is specified, a period of 12 months commencing on 1st April or on such other date as the trustees select; or
 - (b) such other period (if any) exceeding six months but not exceeding 18 months as is selected by the trustees—
 - (i) in connection with the commencement or termination of the scheme, or
 - (ii) in connection with a variation of the date on which the year or period referred to in sub-paragraph (a) is to commence.

Pension Tracing Service

4.—(1) The Secretary of State shall provide an information service to be known as the Pension Tracing Service.

(2) An application may be made to the Secretary of State for information from the Pension Tracing Service relating to one or more registrable schemes.

- (3) The application referred to in paragraph (2) may only be made by—
- (a) any person who is, or may be, or may become, entitled to benefit under the scheme in question, or
 - (b) any person acting on behalf of such a person

and “applicant” shall be construed accordingly.

(4) Following receipt of an application made under paragraph (2) containing sufficient information to enable the Secretary of State to identify—

- (a) the scheme or schemes in question, or
- (b) one or more schemes which in the opinion of the Secretary of State may be the scheme or schemes in question,

the Secretary of State shall provide sufficient information relating to that scheme or those schemes to the applicant to enable the applicant to contact the scheme or schemes.

(5) The Secretary of State shall have the function of publishing (from time to time and in such manner as is in his opinion appropriate) details of the manner in which an application under paragraph (2) is to be made.

(6) Where the Secretary of State has authorised a person to carry on the Pension Tracing Service on his behalf, the provisions of this regulation and regulation 5 shall apply to the authorised person as they apply to the Secretary of State.

Provision of information

5.—(1) For the purposes of carrying on the Pension Tracing Service, the Secretary of State—

- (a) shall be provided with such—
 - (i) information recorded in the register,
 - (ii) extracts from the register, or
 - (iii) copies of the register or of extracts from it,

as are in his opinion necessary for the purpose of carrying on that service; and

- (b) may inspect—
 - (i) the register,
 - (ii) extracts from the register, or
 - (iii) copies of the register or of extracts from it

when in his opinion such inspection is necessary for the purpose of carrying on that service.

(2) For the purposes of providing information as specified in regulation 4(4), the Secretary of State may disclose information to the applicant which he has obtained in accordance with paragraph (1), but only so far as is necessary to provide the applicant with sufficient information to contact any relevant scheme.

(3) When information is disclosed in accordance with paragraph (2), section 82(2) of the Act (restricted information - prohibition on disclosure) shall apply as if the words “and regulations made under section 61” were inserted after paragraph (b).

► **'The Office for National Statistics - provision of information**

¹Reg. 5A inserted by
reg. 2 of S.I. 2007/1625
as from 4.7.07.

5A.—(1) The Office for National Statistics(a)–

(a) shall be provided with such–

- (i) information recorded in the register,
- (ii) extracts from the register, or
- (iii) copies of the register or of extracts from it,

as are in its opinion necessary for the purposes of producing pension statistics;
and

(b) may inspect–

- (i) the register,
- (ii) extracts from the register, or
- (iii) copies of the register or of extracts from it,

when in its opinion, such inspection is necessary for the purposes of producing pension statistics.

(2) When information is disclosed in accordance with paragraph (1), section 82(2) of the Act (restricted information – prohibition on disclosure) shall apply as if the words “and regulations made under section 61” were inserted after “and 235” in paragraph (b). ◀

Revocation

6. The Regulations specified in column 1 of the Schedule to these Regulations are revoked to the extent specified in column 2 of the Schedule.

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

9th March 2005

Malcolm Wicks
Minister of State,
Department for Work and Pensions

(a) The Office for National Statistics can be contacted at Customer Contact Centre Room 1.015
Office for National Statistics Cardiff Road Newport NP10 8XG.

SCHEDULE

<i>Column 1 Regulations</i>	<i>Column 2 Extent of Revocation</i>
The Register of Occupational and Personal Pension Schemes Regulations 1997 (S.I. 1997/371)	The whole of the Regulations
The Register of Occupational and Personal Pension Schemes (Amendment) Regulations 1997 (S.I. 1997/1405)	The whole of the Regulations
The Personal and Occupational Pension Schemes (Miscellaneous Amendments) (No. 2) Regulations 1997 (S.I. 1997/3038)	regulation 11
The Occupational and Personal Pension Schemes (Levy and Register) (Amendments) Regulations 1998 (S.I. 1998/600)	regulations 3 and 4
The Occupational and Personal Pension Schemes (Penalties) Regulations 2000 (S.I. 2000/833)	regulation 3
The Pension Sharing (Consequential and Miscellaneous Amendments) Regulations 2000 (S.I. 2000/2691)	regulation 6
The Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000 (S.I. 2000/3198)	regulation 11

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the register of occupational and personal pension schemes to be compiled and maintained under section 59 of the Pensions Act 2004 (c. 35) (“the Act”).

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Act by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

Regulation 2 and regulation 1 in so far as it applies to that regulation extend to Northern Ireland.

Regulation 2 prescribes those pension schemes which are registrable.

Regulation 3 prescribes further information which is registrable information.

Regulation 4 provides that the Secretary of State, or someone authorised by him, shall provide an information service to be known as the Pension Tracing Service, which will assist people to get back in touch with pension schemes of which they may be a member but with which they have lost contact.

Regulation 5 entitles the Secretary of State to be provided with information from the register, or to inspect the register, if he considers it necessary to carry on the Pension Tracing Service. It also enables him to disclose certain information from the register in certain circumstances to persons seeking to trace pensions.

Regulation 6 brings into effect the Schedule, which revokes the previous set of regulations which made provision about the register of pension schemes, and other amending regulations.

An assessment of the impact on business, charities or the voluntary sector of the provisions in these regulations is included in the Regulatory Impact Assessment that accompanied the Pensions Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Regulatory Impact Unit, 3rd floor The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

