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STATUTORY INSTRUMENTS

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**1988 No. 2238**

**PENSIONS**

**The Personal Pension Schemes  
(Compensation) Regulations 1988**

*Made* - - - - 20th December 1988  
*Laid before Parliament* 5th January 1989  
*Coming into force* - - 26th January 1989

The Secretary of State for Social Security, in exercise of the powers conferred by section 166(2) of the Social Security Act 1975 <sup>F1</sup> and section 84(1) of, and paragraph 10 of Schedule 1 to, the Social Security Act 1986 <sup>F2</sup> and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals referred to them, hereby makes the following Regulations:

**Annotations:**

- F1** 1975 c. 14. Section 166(2) applies to powers to make regulations under the Social Security Act 1986 by virtue of section 83(1) of that Act.
- F2** 1986 c. 50; see the definitions of “prescribed” and “regulations” in section 84(1).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Personal Pension Schemes (Compensation) Regulations 1988 and shall come into force on 26th January 1989.

(2) In these Regulations—

“the Act” means the [<sup>F3</sup>Pension Schemes Act 1993];

“the Appropriate Schemes Regulations” means the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 <sup>F4</sup>;

[<sup>F5</sup>“authorised insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act to effect and carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom;

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*Changes to legislation: There are currently no known outstanding effects for the The Personal Pension Schemes (Compensation) Regulations 1988. (See end of Document for details)*

“authorised deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;

“the Financial Services and Markets Act” means the Financial Services and Markets Act 2000;

“the Financial Services Compensation Scheme” has the same meaning as in section 213(2) of the Financial Services and Markets Act;]

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“liable scheme” has the meaning assigned by regulation 2;

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“scheme” means personal pension scheme.

[<sup>F12</sup>(3) In paragraph (2), the definitions of “authorised insurer” and “authorised deposit taker” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

#### Annotations:

- F3** Words in reg. 1(2) substituted (12.5.1994) by *The Occupational and Personal Pension Schemes (Consequential Amendments) Regulations 1994* (S.I. 1994/1062), reg. 1(2), **Sch. 2 para. 22(2)**
- F4** S.I. 1988/137, amended by S.I. 1988/830.
- F5** Words in reg. 1(2) inserted (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(2)**
- F6** Words in reg. 1(2) revoked (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(1)(i)**
- F7** Words in reg. 1(2) revoked (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(1)(ii)**
- F8** Words in reg. 1(2) revoked (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(1)(iii)**
- F9** Words in reg. 1(2) revoked (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(1)(iv)**
- F10** Words in reg. 1(2) revoked (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(1)(v)**
- F11** Words in reg. 1(2) revoked (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(1)(vi)**
- F12** Reg. 1(3) inserted (1.12.2001) by *The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001* (S.I. 2001/3649), arts. 1, **393(3)**

## Application of Regulations

2. These Regulations apply to any scheme except a scheme which takes the form—

- <sup>F13</sup>(a) mentioned in [<sup>F14</sup>regulation 2(2)(a)] of the Appropriate Schemes Regulations (insurance policies and annuity contracts), being a scheme established by an authorised insurer who is subject to the provisions of, or participates in, the Financial Services Compensation Scheme;]
- <sup>F15</sup>(b) . . . . .
- (c) mentioned in regulation 2(1)(b) of those Regulations (unit trust schemes), being a scheme of which the trustee and operator are both subject to the provisions of [<sup>F16</sup>the Financial Services Compensation Scheme]; and
- <sup>F17</sup>(d) mentioned in [<sup>F18</sup>regulation 2(2)(c)] of those Regulations (interest-bearing accounts etc. with banks and building societies) being a scheme which is established by an authorised deposit taker who is subject to the provisions of, or participates in, the Financial Services Compensation Scheme. ]

and in these Regulations a scheme to which these Regulations apply is referred to as a “liable scheme”.

### Annotations:

- F13** Reg. 2(a) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **394(1)**
- F14** Words in reg. 2(a) substituted (3.7.2002) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2002 \(S.I. 2002/1555\)](#), arts. 1, **33(2)(a)**
- F15** Reg. 2(b) revoked (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **394(2)**
- F16** Words in reg. 2(c) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **394(3)**
- F17** Reg. 2(d) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **394(4)**
- F18** Words in reg. 2(d) substituted (3.7.2002) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2002 \(S.I. 2002/1555\)](#), arts. 1, **33(2)(b)**

## Requirements to be complied with by liable schemes in the event of insolvency

3.—<sup>F19</sup>(1) For the purposes of paragraph (b) of section 30(1) of the Act the prescribed circumstances are that if the scheme is a liable scheme which takes the form mentioned in any of subparagraphs (a), (b) or (c) of [<sup>F20</sup>regulation 2(2)] of the Appropriate Schemes Regulations, and if the provisions of the Financial Services Compensation Scheme applied, those provisions would become operative.]

- (a) that if the scheme is a liable scheme which takes the form mentioned in regulation 2(1)(a) of the Appropriate Schemes Regulations and if (in the case of a scheme established by an insurance company) the provisions of section 10 of the Policyholders Protection Act applied, or (in the case of a scheme established by a friendly society) the provisions of either the Friendly Societies Protection Scheme or the Financial Services Compensation Rules applied, those provisions would become operative;
- (b) that if the scheme is a liable scheme which takes the form mentioned in regulation 2(1)(b) of the Appropriate Schemes Regulations and if the provisions of the Financial Services Compensation Rules applied, those provisions would become operative; and

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- (c) that if the scheme is a liable scheme which takes the form mentioned in regulation 2(1)(c) of the Appropriate Schemes Regulations, and if the provisions of either section 58 of the Banking Act (if the scheme is established by a body mentioned in regulation 3(3)(c) or (d) of those Regulations) or section 27 of the Building Societies Act (if the Scheme is established by a body mentioned in regulation 3(3)(a) or (b) of those Regulations) applied, those provisions would become operative.

(2) Subject to regulation 4, a liable scheme can be an appropriate scheme [<sup>F21</sup>for the purposes of the Act] only if it secures that in the event that, by reason of the commission by any person of a criminal offence or in the circumstances specified in paragraph (1) (or both), the scheme is unable to meet from its own resources the whole or any part of its liability for protected rights under the scheme, that liability will, at least to the extent specified in paragraph (3), be met from some other source.

[<sup>F22</sup>(3) The extent to which the liability specified in paragraph (2) must be met from some other source is, if the scheme takes the form mentioned in any of subparagraphs (a), (b) or (c) of [<sup>F20</sup>regulation 2(2)] of the Appropriate Schemes Regulations, the extent to which it would be met under the Financial Services Compensation Scheme if the rules of that Scheme applied.]

- (a) if the scheme takes the form mentioned in regulation 2(1)(a) of the Appropriate Schemes Regulations and is established by an insurance company, the extent to which it would be met under section 10 of the Policyholders Protection Act if that Act applied or, if it is established by a friendly society, the extent to which it would be met under the Friendly Societies Protection Scheme if that scheme applied;
- (b) if the scheme takes the form mentioned in regulation 2(1)(b) of the Appropriate Schemes Regulations, the extent to which it would be met under the Financial Services Compensation Rules if those rules applied; and
- (c) if the scheme takes the form mentioned in regulation 2(1)(c) of the Appropriate Schemes Regulations, the extent to which it would be met under section 58 of the Banking Act (if the scheme is established by a body mentioned in regulation 3(3)(c) or (d) of those Regulations) or section 27 of the Building Societies Act (if the scheme is established by a body mentioned in regulation 3(3)(a) or (b) of those Regulations) if those sections applied.

#### **Annotations:**

- F19** Reg. 3(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **395(1)**
- F20** Words in reg. 3 substituted (3.7.2002) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2002 \(S.I. 2002/1555\)](#), arts. 1, **33(3)**
- F21** Words in reg. 3(2) substituted (12.5.1994) by [The Occupational and Personal Pension Schemes \(Consequential Amendments\) Regulations 1994 \(S.I. 1994/1062\)](#), reg. 1(2), **Sch. 2 para. 22(4)**
- F22** Reg. 3(3) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **395(2)**

#### **Transitional provision**

**4.** If on the day when these Regulations come into force an appropriate scheme certificate is in force in relation to a liable scheme, the provisions of these Regulations shall not apply to that scheme until the expiration of the period of 3 months beginning with that day. Signed by authority of the Secretary of State for Social Security.

Signed by authority of the Secretary of State for Social Security

Department of Social Security

*Peter Lloyd*  
Parliamentary Under-Secretary of State,

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide that for a personal pension scheme which is not within the investor protection provisions of one or other of the Policyholders Protection Act 1975, the Building Societies Act 1986, the Banking Act 1987, the Financial Services (Compensation of Investors) Rules 1988 or the Friendly Societies Protection Scheme to be an appropriate scheme under Part I of the Social Security Act 1986, it must secure that any part of its liability for protected rights which it is unable to meet from its own resources are, at least to the extent that they would be met if one or other of those provisions did apply, met from some other source.

The report of the Occupational Pensions Board on the draft of these Regulations which had been referred to them together with a statement by the Secretary of State for Social Services showing that the Regulations give effect to the Board's recommendations is contained in Command Paper No. 553 published by Her Majesty's Stationery Office.

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