STATUTORY INSTRUMENTS

2005 No. 2401

PENSIONS

The Pension Schemes (Categories) Regulations 2005

Made - - - -	*25th August 2005*
Laid before Parliament	*1st September 2005*
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 1(1), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(**a**), and sections 8(1) and (2) and 83(4), (5) and (6)(a) of the Welfare Reform and Pensions Act 1999(**b**) and of all other powers enabling him in that behalf, by this instrument, which is consequential upon section 239 of the Pensions Act 2004(**c**) and is made before the end of the period of six months beginning with the coming into force of that section of that Act(**d**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pension Schemes (Categories) Regulations 2005 and shall come into force—

(a) in the case of a pension scheme that has its main administration in the United Kingdom or that is specified in regulation 2(4), on 22nd September 2005; and

(b) in all other cases, on 6th April 2006.

Prescription of certain pension schemes as occupational pension schemes

2.—(1) The pension schemes to which this regulation applies are prescribed as occupational pension schemes for the purposes of section 1(1) (categories of pensions schemes) of the Pension Schemes Act 1993 ("the 1993 Act").

(2) This regulation applies to a pension scheme—

(a) established—

(i) for the purpose of providing benefits to, or in respect of, people with service in the employment of a participating employer, or

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(**a**) 1993 c.48; section 1 is amended by section 239 of the Pensions Act 2004 (c.35); section 181(1) is cited because of the meaning there given to "prescribe" and "regulations".

(**b**) 1999 c.30; section 8(1) is amended by section 7(2)(c) of the Pensions Act 2004 and is cited because of the meaning there given to "prescribed"; section 8(2) is amended by section 319(1) of, and paragraph 74 of Schedule 12 to, the Pensions Act 2004.

(**c**) 2004 c.35.

(**d**) *See* section 185(1) of the Pension Schemes Act 1993 which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations for the purposes of Part 1 (among others) of that Act. By virtue of section 185(2)(e) this duty does not apply to regulations which state that they are consequential upon a specified enactment and are made before the end of the period of six months beginning with the coming into force of that enactment. Section 185(1) is amended by sections 122, 151 and 177 of, and paragraph 46 of Schedule 3, paragraph 80(a) of Schedule 5 and Part 1 of Schedule 7 to, the Pensions Act 1995 (c.26). Paragraph (e) of section 185(2) was inserted by section 151 of, and paragraph 80(b) of Schedule 5 to, the Pensions Act 1995.

(ii) for that purpose and also for the purpose of providing benefits to, or in respect of, other people;

(b) that has its main administration in the United Kingdom or outside the member States; and

(c) the terms of which provide that each participating employer is a contributor to the scheme.

(3) For the purposes of paragraph (2), "participating employer" means, in relation to a pension scheme, an employer who enters into arrangements (whether before or after the coming into force of these Regulations) with a view to the provision of benefits under the scheme to people with service in the employment of that employer.

(4) This regulation applies to a pension scheme established pursuant to paragraph 3.2 of Part 7 of Annex 2 to Schedule 1 to the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999(**a**) (agreement establishing implementation bodies: staffing arrangements).

(5) This regulation applies to a scheme which—

(a) is established—

(i) for the purpose of providing benefits to, or in respect of, people with service in employments of a description; or

(ii) for that purpose and also for the purpose of providing benefits to, or in respect of, other people,

and which—

(b) meets the criteria set out in sub-paragraphs (a) or (b) of the definition of "public service pension scheme" in section 1(1) of the 1993 Act; or

(c) is established with the concurrence of the Treasury, by or with the approval of any Minister of the Crown or established by or with the approval of the Scottish Ministers; or

(d) is prescribed by regulations made by the Secretary of State and the Treasury jointly under section 1(1) of the 1993 Act as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of the 1993 Act.

Prescription of certain stakeholder pension schemes as personal pension schemes

3. A stakeholder pension scheme—

(a) which is established under a trust,

(b) the provisions of which do not require the employer of any member of the scheme to make contributions to the scheme, and

(c) which would (apart from this regulation) be an occupational pension scheme,

shall be treated for all purposes as a personal pension scheme.

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

Stephen C. Timms
Minister of State,
Department for Work and Pensions

25 August 2005

(**a**) S.I. 1999/859.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for certain pension schemes to fall within the definition of "occupational pension scheme" in section 1(1) of the Pension Schemes Act 1993 (c.48), as amended by section 239 of the Pensions Act 2004 (c.35). They also provide that certain stakeholder pension schemes which are occupational pension schemes are to be treated as personal pension schemes.

Regulation 1 provides for the Regulations to come into force—

(a) on 22nd September 2005, in the case of pension schemes which have their main administration in the United Kingdom and pension schemes specified in regulation 2(4), and

(b) on 6th April 2006 in all other cases.

Regulation 2 prescribes three descriptions of pension scheme as occupational pension schemes. These are—

(a) schemes established by a person other than an employer of persons benefiting from the scheme, but in respect of whom such employers contribute to the scheme;

(b) pension schemes established pursuant to the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (S.I. 1999/859) (which might not otherwise be occupational pension schemes because they do not have their main administration in the United Kingdom); and

(c) schemes fulfilling the criteria set out in the definition of "public service pension scheme" in section 1(1) of the Pension Schemes Act 1993 (except the requirement to be an occupational pension scheme).

Regulation 3 provides that a stakeholder pension scheme established under a trust, where the provisions of the scheme do not require the employer of any member of the scheme to make contributions to it, is to be treated as a personal pension scheme.

These Regulations are consequential upon section 239 of the Pensions Act 2004 and are made before the end of the period of six months beginning with the coming into force of that section of that Act. They are accordingly exempt from the requirement in section 185(1) of the Pension Schemes Act 1993 for the Secretary of State to consult such persons as he may consider appropriate before making these Regulations. However a consultation exercise was undertaken, except in respect of the provisions of regulation 2(5), in any event.

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

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