

GOVERNMENT RESPONSE TO CONSULTATION ON DRAFT REGULATIONS

Pension Protection Fund (Miscellaneous Amendments) (No.2) Regulations 2008

July 2008

DWP Department for
Work and Pensions

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Introduction

1. Between 22 May 2008 and 5 June 2008, the Department for Work and Pensions (DWP) undertook a consultation exercise on the draft Pension Protection Fund (Miscellaneous Amendments) (No.2) Regulations 2008. The draft Regulations were sent to the organisations in Annex A and made available on DWP's website. The Regulations have been renamed as the Pension Protection Fund (Entry Rules) Amendment Regulations 2008.
2. These regulations amend the Pension Protection Fund (Entry Rules) Regulations 2005 so that where a scheme's sponsoring employer dissolves during a Pension Protection Fund (PPF) assessment period, that scheme remains an eligible scheme for PPF purposes and can thus transfer into the PPF if the necessary criteria are met.
3. DWP received five responses to the consultation. A list of respondents is in Annex B. DWP is grateful for the contributions to the development of these Regulations, which will shortly be laid before Parliament and soon after will come into force, subject to Parliamentary approval.
4. This document sets out the main points made by respondents and provides the Government's response. Comments on the Regulations should not however be taken as an authoritative interpretation of the law. Such an interpretation can only be provided by a court.
5. The final Regulations and accompanying explanatory memoranda will be available on the Office of Public Sector Information's website at <http://www.opsi.gov.uk/si/si-2008-index>
6. This document is available on the DWP website at <http://www.dwp.gov.uk/consultations/2008/>
7. A paper copy of this document can be obtained from:

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Responses to the consultation on the Pension Protection Fund (Miscellaneous Amendments) (No.2) Regulations 2008 and the Government's response

8. There were five responses to the above consultation. Three of the respondents had no comments to make. The comments made by two of the respondents, Allen & Overy LLP and The Society of Pension Consultants and the Government's response follows.

One of the respondents queried when the regulations would come into force as there was no date prescribed in the regulations.

9. The Government intends for the Regulations to come into force on 2 August 2008.

One of the respondents suggested, for the sake of clarity, removing the words, "or liquidated" from the end of the new regulation 3(1)(c) of the Pension Protection Fund (Entry Rules) Regulations 2005.

10. The words, "or liquidated" have been removed.

One of the respondents suggested amending regulation 2(3) of the draft regulations so that it is consistent with the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005.

11. Having considered this we have not amended the Regulations. We consider it more appropriate for the new provision to be consistent with the Pension Protection Fund (Entry Rules) Regulations 2005 themselves. In particular, regulation 2(9) of those Regulations contains a very similar to provision to the one we want in regulation 2(3) of the consultation draft.

One of the respondents suggested that it may be appropriate, for consistency with the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, to take this opportunity to amend the definition of "segregated part" in regulation 1(3) of the Pension Protection Fund (Entry Rules) Regulations 2005 so that the words "or deem" in (a) and (b) of the definition are inserted after the word "require".

12. We have decided not to make this change, but we intend to consider this point in more detail before deciding whether to make amendments in a future set of Regulations.

Annex A – List of those consulted

Aon Consulting
Association of British Insurers
Association of Consulting Actuaries
Association of Corporate Trustees
Association of Independent Financial Advisers
Association of Pension Lawyers
Association of Pensioner Trustees
Auditing Practices Board
Better Regulation Executive
British Chambers of Commerce
Confederation of British Industry
Consumers Association
Council on Tribunals
Department for Social Development (Northern Ireland)
Engineers Employers Federation
Faculty and Institute of Actuaries
Federation of Small Businesses
Financial Ombudsman Service
Financial Services Authority
Gissings & Co
HM Treasury (MOCOP)
HM Revenue and Customs
Industry Wide Pension Schemes Group
Insolvency Service
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Scotland
Institute of Directors
Investment Managers' Association
KPMG
Law Society of England and Wales
Law Society of Scotland
Legal & General
National Association of Pension Funds
National Audit Office
National Consumer Council
Occupational Pension Schemes Joint Working Group
Occupational Pensioners' Alliance
Occupational Pensions Defence Union
Office of Fair Trading

Pension Protection Fund
Pension Protection Fund Ombudsman
Pensions Advisory Service
Pensions Management Institute
Pensions Ombudsman
Pensions Regulator
Pensions Research Accountants' Group
Scottish Executive
Small Business Service
Society of Pension Consultants
Trades Union Congress
Watson Wyatt
Welsh Assembly
William Mercer

Annex B - List of respondents to the Pension Protection Fund (Miscellaneous Amendments) (No.2) Regulations 2008

The Actuarial Profession
Allen & Overy LLP
HM Revenue and Customs
The Society of Pension Consultants
The Pensions Regulator