
STATUTORY INSTRUMENTS

2005 No. 2113

**The Occupational Pension Schemes
(Miscellaneous Amendments) Regulations 2005**

Amendment of the Multi-employer Regulations

10.—(1) The Multi-employer Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(1) (citation, commencement and interpretation)—

(a) in paragraph (2), in the appropriate alphabetical place, insert—

““employer”, in relation to a single-employer section of a segregated scheme which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it;” and

(b) for paragraph (3), substitute—

“(3) In the application of Part 2 of the Act, the definition of “multi-employer scheme” in section 307(4) of the Act and of these Regulations, “employer”, in relation to a multi-employer scheme that is not a segregated scheme or a multi-employer section of a segregated scheme—

(a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—

(i) condition A is that a debt under section 75 of the Pensions Act 1995 (deficiencies in the assets) became due from that employer and the full amount of the debt has been paid before the assessment date;

(ii) condition B is that—

(aa) such a debt became due;

(bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and

(cc) the reduced amount has been paid in full before the assessment date;

(iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;

(iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme

- or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
- (i) condition A is that a debt under section 75 of the Pensions Act 1995 became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.”.
- (3) For Part 3 (segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of participating employer), substitute—

“PART 3

SEGREGATED SCHEMES:

MULTI-EMPLOYER SECTIONS WITHOUT REQUIREMENT FOR PARTIAL WIND UP ON WITHDRAWAL OF A PARTICIPATING EMPLOYER

Application and effect

14.—(1) This regulation applies to a multi-employer section of a segregated scheme the rules of which do not provide for the partial winding up of the section when an employer in relation to the section ceases to participate in the scheme.

(2) Except as otherwise provided in this Part, in the case of a section of a scheme to which this regulation applies—

- (a) Part 2 of the Act, except Chapter 4 (fraud compensation), shall be read as if it contained the modifications provided for by this Part; and
- (b) references in Part 2 of the Act, except in Chapter 4, to—
 - (i) “scheme rules” shall be read as if they were references to “scheme rules relating to the section”;
 - (ii) “the scheme” shall be read as if they were references to “the section”;

- (iii) “the employer” shall be read as if they were references to “an employer in relation to the section”; and
 - (iv) “trustees or managers of the scheme” shall, in relation to a multi-employer section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.
- (3) Paragraph (2) shall not have effect in relation to section 174 of the Act (initial levy).

Notification of insolvency events, confirmation of scheme status etc.

15.—(1) Section 120 of the Act (duty to notify insolvency events in respect of employers) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where, in the case of a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”), an insolvency event occurs in relation to any employer in relation to that section.”; and
- (b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from an insolvency practitioner under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(2) Section 122 of the Act (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where an insolvency event has occurred in relation to any employer in relation to a multi-employer section of a segregated scheme.”;
- (b) in subsection (2)—
 - (i) for the words “the employer”, there were substituted the words “an employer”;
 - (ii) in paragraph (a), after the words “a scheme rescue is not possible”, there were inserted the words “in relation to the relevant section of the scheme”; and
 - (iii) in paragraph (b), after the words “a scheme rescue has occurred”, there were inserted the words “in relation to the relevant section of the scheme”;
- (c) in paragraph (a) of subsection (3), for the words “the employer”, there were substituted the words “an employer”;
- (d) in subsection (4)—
 - (i) for the words “the employer”, there were substituted the words “an employer”; and
 - (ii) for the words “in relation to the scheme”, there were substituted the words “in relation to the section”;
- (e) in subsection (5)—

- (i) in paragraph (a), for the words “in relation to an occupational pension scheme”, there were substituted the words “in relation to a multi-employer section of a segregated scheme”; and
 - (ii) in paragraph (b), for the words “in relation to such a scheme”, there were substituted the words “in relation to such a section”;
 - (f) in subsection (6), for the words “the employer”, there were substituted the words “an employer”; and
 - (g) after subsection (6), there were inserted the following subsection—
 - “(6A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice issued by an insolvency practitioner or former insolvency practitioner under subsection (6), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.
- (3) Section 123 of the Act (approval of notices issued under section 122) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—
- (a) for subsection (1), there were substituted the following subsection—
 - “(1) This section applies where the Board receives a notice under section 122(6) (“the section 122 notice”) in relation to any employer in relation to a multi-employer section of a segregated scheme at a time when the Board has previously received such a notice in relation to all other employers in relation to that section of the scheme.”;
 - (b) for subsection (2), there were substituted the following subsection—
 - “(2) The Board must determine whether to approve the section 122 notice received in relation to that employer.”; and
 - (c) after subsection (4), there were inserted the following subsection—
 - “(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice issued by the Board under subsection (4), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.
- (4) Section 124 of the Act (Board’s duty where there is a failure to comply with section 122) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—
- (a) in subsection (1)—
 - (i) for the words “This section applies where in relation to an occupational pension scheme”, there were substituted the words “This section applies where in relation to a multi-employer section of a segregated scheme”; and
 - (ii) in paragraphs (a) and (b), for the words “the employer”, there were substituted the words “an employer”;
 - (b) in subsection (4)—
 - (i) in paragraph (d), for the words “the employer”, there were substituted the words “an employer”; and
 - (ii) in paragraph (e), for the words “in relation to the employer, the employer”, there were substituted the words “in relation to an employer, that employer”; and
 - (c) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice issued by the Board under section 122 by virtue of this section, they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(5) Section 125 of the Act (binding notices confirming status of scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Eligible schemes

16.—(1) Except as otherwise provided in this Part, for the purposes of Part 2 of the Act, except Chapter 4, as it applies to a section of a scheme to which regulation 14 applies, references to “an eligible scheme” shall be read as if they were references to a multi-employer section of a segregated scheme where that section, if it were a scheme, would not be—

- (a) a money purchase scheme; or
- (b) a scheme which is a prescribed scheme or a scheme of a prescribed description under section 126(1)(b) of the Act.

(2) Paragraph (1) shall not apply for the purposes of sections 174 to 181 of the Act (the levies).

Duty to assume responsibility for schemes

17.—(1) Section 127 of the Act (duty to assume responsibility for schemes following insolvency event) shall have effect in relation to a section of a scheme to which regulation 14 applies and, for this purpose, shall be modified so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where a qualifying insolvency event has occurred in relation to an employer in relation to a multi-employer section of a segregated scheme.”;

- (b) for subsection (3), there were substituted the following subsection—

“(3) For the purposes of this section, an insolvency event (“the current event”) in relation to an employer in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, is a qualifying insolvency event if—

- (a) it occurs—
 - (i) simultaneously in relation to more than one of the employers in relation to that section of the scheme at a time when those employers are the only employers in relation to that section, or
 - (ii) in relation to an employer in relation to that section of the scheme at a time when all other employers in relation to that section have either had—

- (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under section 129(1A)(2) or a notice given by the Board in respect of them under section 129(5) by virtue of a notice given by the Regulator under section 129(4)(a)(3),
- (b) it occurs on or after the day appointed under section 126(2), and
- (c) it—
- (i) is the first insolvency event to occur in relation to that employer on or after that day, or
 - (ii) does not occur within an assessment period (see section 132) in relation to the section which began before the occurrence of the current event.”.

(2) Section 128 of the Act (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

“(1) This section applies where, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme—

 - (a) the trustees or managers make an application under subsection (1)(a) or (b) of section 129 (a “section 129 application”), or
 - (b) the Board receives a notice given by the Regulator under subsection (4)(b) of that section.”(4).

(3) Section 129 of the Act (applications and notifications for the purposes of section 128) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

 - (a) for subsection (1), there were substituted the following subsection—

“(1) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme—

 - (a) have—
 - (i) notified the Board in accordance with subsection (1A) that an employer in relation to the section is unlikely to continue as a going concern at a time when all other employers in relation to that section have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), or

(2) Subsection (1A) of section 129 of the Pensions Act 2004 (c. 35) is inserted by the modification in paragraph (3)(b) of this regulation.

(3) Subsection (4) of section 129 of the Pensions Act 2004 is substituted by the modification in paragraph (3)(c) of this regulation.

(4) Subsection (1) of section 129 is modified by paragraph (3)(a) of this regulation.

- (ii) received a notice given by the Board under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a) in respect of an employer in relation to the section at a time when all other employers in relation to that section have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), or
- (b) are aware that a person is no longer an employer, or that persons are no longer employers, in relation to the section at a time when—
 - (i) all other employers in relation to that section have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under subsection (1A) or (5) by virtue of a notice given by the Regulator under subsection (4)(a), on or after 6th April 2005 in relation to an employer in relation to that section,

they must, except where an assessment period has already begun in relation to that section of the scheme, make an application to the Board for it to assume responsibility for the section under section 128.”;

- (b) after subsection (1), there were inserted the following subsections—
 - “(1A) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that an employer in relation to that section—
 - (a) is unlikely to continue as a going concern, and
 - (b) the prescribed requirements are met in relation to that employer,they must give the Board a notice to that effect.
 - (1B) The notice which must be given to the Board in accordance with subsection (1A) must be in writing and must contain the following information—
 - (a) a description of the type or purpose of the notice,
 - (b) the name of the employer in relation to the section of the scheme in respect of which the notice is given,
 - (c) a statement by the trustees or managers of the section that the employer in respect of which the notice is given is unlikely to continue as a going concern and that the requirements prescribed under subsection (1A)(b) have been met in relation to that employer,

- (d) the date on which the trustees or managers of the section became aware that the employer in respect of which the notice is given is unlikely to continue as a going concern, and
- (e) the date on which the notice was sent to the Board by the trustees or managers of the scheme.

(1C) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme make an application to the Board under subsection (1)(a) or (b), they must as soon as practicable notify that fact to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

- (c) for subsection (4), there were substituted the following subsection—

“(4) Where, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, the Regulator—

- (a) becomes aware that an employer in relation to that section of the scheme—
 - (i) is unlikely to continue as a going concern, and
 - (ii) meets the requirements prescribed under subsection (1A)(b), or
- (b) is aware that a person is no longer an employer, or that persons are no longer employers, in relation to that section of the scheme at a time when—
 - (i) all other employers in relation to that section of the scheme have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under subsection (1A) or (5) by virtue of a notice given by the Regulator under subsection (4)(a), on or after 6th April 2005 in relation to an employer in relation to that section of the scheme,

it must, except where an assessment period has already begun in relation to that section of the scheme, give the Board a notice to that effect.”; and

- (d) after subsection (5), there were inserted the following subsection—

“(5A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (5), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Board’s duty where application or notification received under section 129

18. Section 130 of the Act (Board’s duty where application or notification received under section 129) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

- “(1) This section applies where the Board—
- (a) receives an application under subsection (1) of section 129 and is satisfied that either paragraph (a) or (b) of that subsection is satisfied in relation to the application, or
 - (b) is notified by the Regulator under section 129(4)(b).”;
- (b) in subsection (2), after the words “a scheme rescue is not possible”, there were inserted the words “in relation to a multi-employer section of a segregated scheme”;
- (c) in subsection (3), after the words “a scheme rescue has occurred”, there were inserted the words “in relation to that section”;
- (d) after subsection (4), there were inserted the following subsection—
- “(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under subsection (4), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;
- (e) in subsection (5)—
- (i) in paragraph (a), for the words “in relation to an occupational pension scheme”, there were substituted the words “in relation to a multi-employer section of a segregated scheme”; and
 - (ii) in paragraph (b), for the words “in relation to such a scheme”, there were substituted the words “in relation to such a section”; and
- (f) after subsection (7), there were inserted the following subsection—
- “(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Protected liabilities

19. Section 131 of the Act (protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

- “(1) For the purposes of this Chapter the protected liabilities, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”) are—
- (a) the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see section 162) if the Board assumed responsibility for the section in accordance with this Chapter,
 - (b) the liabilities of the scheme as a whole which are reasonably attributable to the section and which are not liabilities to, or in respect of, its members, and
 - (c) the estimated cost of winding up the section.”.

Assessment periods

20. Section 132 of the Act (assessment periods) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in subsection (2)—
 - (i) for the words “in relation to an eligible scheme”, there were substituted the words “in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme”;
 - (ii) for the words “the employer”, there were substituted the words “an employer in relation to that section”; and
 - (iii) after the words “an assessment period”, there were inserted the words “in relation to the section”;
- (b) in subsection (4), for the words “in relation to an eligible scheme, an application is made under section 129(1) or a notification is received under section 129(5)(a), an assessment period”, there were substituted the words “in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under section 129(1)(a) or (b) or a notification is received under section 129(4)(b), an assessment period in relation to that section of the scheme”; and
- (c) in subsection (5), for the words “section 129(5)(a)”, there were substituted the words “section 129(4)(b)”.

Directions

21. Section 134 of the Act (directions) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in subsection (2)—
 - (i) for the words “the scheme’s protected liabilities do not exceed its assets”, there were substituted the words “the protected liabilities of the section do not exceed its assets”; and
 - (ii) for the words “in relation to the scheme”, there were substituted the words “in relation to the segregated scheme in question”; and
- (b) in paragraph (a)(i) of subsection (3), for the words “the trustees or managers” there were substituted the words “any trustees or managers”.

Power to validate contraventions of section 135 and Board to act as creditor of the employer

22.—(1) Section 136 of the Act (power to validate contraventions of section 135) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (c) of subsection (2), for the words “in relation to the employer, or if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer, or if there is no such insolvency practitioner, that employer”; and
- (b) after subsection (2), there were inserted the following subsection—
 - “(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to

that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(2) Section 137(2) of the Act (Board to act as creditor of the employer) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, for the words “the employer”, there were substituted the words “an employer”.

Valuation of assets

23.—(1) Section 143(2) of the Act (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, for the words “the scheme”, there were substituted the words “the relevant section of the scheme”.

(2) Section 144 of the Act (approval of valuation) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in subsection (1), for the words “obtains a valuation in respect of a scheme”, there were substituted the words “obtains a valuation in respect of the relevant section of the scheme”;
- (b) in paragraph (b)(iii) of subsection (2), for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (c) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a valuation from the Board under subsection (2), they must send a copy of that valuation as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Section 145 of the Act (binding valuations) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in subsection (2), for the words “in relation to a scheme”, there were substituted the words “in relation to the relevant section of the scheme”;
- (b) in paragraph (c) of subsection (3), for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (c) after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (3) together with a copy of a binding valuation, they must send a copy of the notice and the binding valuation as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Refusal to assume responsibility for a scheme

24.—(1) Section 146 of the Act (schemes which become eligible schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

“(1) Regulations may provide that where the Board is satisfied that any multi-employer section of a segregated scheme is not, for the purposes of this Part, an eligible scheme throughout such a period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;

- (b) in subsection (2)—
 - (i) for the words “a scheme”, there were substituted the words “a section of the scheme”; and
 - (ii) in paragraph (b)(iii), for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”;
- (c) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;
- (d) in paragraph (c) of subsection (4), for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (e) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(2) Section 147 of the Act (new schemes created to replace existing schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

“(1) The Board must refuse to assume responsibility for a new multi-employer section of a segregated scheme (“the new section”) under this Chapter where it is satisfied that—

 - (a) the new section was established during such period as may be prescribed,
 - (b) an employer in relation to the new section was, at the date of establishment of that section, also the employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new section,
 - (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme or the old section has or have been made to the new section, and
 - (d) the main purpose or one of the main purposes of establishing the new section and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the transfer or

transfers, regulations under section 146 would have operated to prevent such payments in respect of their rights under the old scheme or the old section.”;

(b) in paragraph (b)(iii) of subsection (2), for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”;

(c) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

(d) in paragraph (c) of subsection (4), for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and

(e) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (4) together with a copy of the binding notice, they must send a copy of the notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Section 148 of the Act (withdrawal following issue of section 122(4) notice) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) in paragraph (c) of subsection (5), for the words “the employer”, there were substituted the words “any employer”;

(b) after subsection (5), there were inserted the following subsection—

“(5A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice issued by the Board under this section, they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

(c) in paragraph (c) of subsection (7), for the words “the employer”, there were substituted the words “any employer”; and

(d) after subsection (7), there were inserted the following subsection—

“(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities

25.—(1) Section 151(8) of the Act (application for reconsideration) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, in the definition of “protected benefits quotation”, for the words from ““protected benefits

quotation”, in relation to a scheme, means” to the words “from the reconsideration time—”, there were substituted the following words—

““protected benefits quotation”, in relation to a section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the section from the trustees or managers of the scheme, which would provide in respect of each member of the section from the reconsideration time—”.

(2) Section 152 of the Act (duty to assume responsibility following reconsideration) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) for subsection (2), there were substituted the following subsection—

“(2) The Board must assume responsibility in accordance with this Chapter for a multi-employer section of a segregated scheme if it is satisfied that the value of the assets of the section at the reconsideration time is less than the aggregate of—

- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) the liabilities of the scheme as a whole at that time which are reasonably attributable to the section and which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated cost of winding up the section at that time.”;

(b) after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under subsection (3), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”; and

(c) after subsection (7), there were inserted the following subsection—

“(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (7), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Section 153 of the Act (closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) in subsections (2) and (5), for the words “a closed scheme”, there were substituted the words “a closed section of the scheme”; and

(b) after subsection (6), there were inserted the following subsection—

“(6A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under subsection (6), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(4) Section 154 of the Act (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) in paragraph (a) of subsection (2), for the words “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)”, there were substituted

the words “(scheme rescue not possible in relation to a multi-employer section of a segregated scheme but section has sufficient assets to meet the protected liabilities)”;

- (b) in subsection (6), for the words “a scheme is wound up”, there were substituted the words “a multi-employer section of a segregated scheme is wound up”;
- (c) in subsection (11), for the words “winding up of a scheme”, there were substituted the words “winding up of a multi-employer section of a segregated scheme”; and
- (d) in subsection (12), for the words “in relation to a scheme”, there were substituted the words “in relation to a multi-employer section of a segregated scheme”.

(5) Section 155 of the Act (treatment of closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

“(1) In this section “closed scheme” means a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under section 153 to continue as a closed section of the scheme.”.

(6) Section 157 of the Act (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (4), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Transfer notice and assumption of responsibility for a scheme

26.—(1) Section 160 of the Act (transfer notice) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in subsection (1), for the words “required to assume responsibility for a scheme”, there were substituted the words “required to assume responsibility for a multi-employer section of a segregated scheme”;
- (b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a transfer notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”; and

- (c) for subsection (6), there were substituted the following subsection—

“(6) The Board must give a copy of the transfer notice given under subsection (2) to—

- (a) the Regulator, and
- (b) an insolvency practitioner acting in relation to every employer in relation to the section of the scheme in respect of which the transfer notice is given.”.

(2) Section 161 of the Act (effect of Board assuming responsibility for a scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (b) of subsection (2), after the word “obligations”, there were inserted the words “to or in respect of members of that section”; and

(b) in paragraph (a) of subsection (4), after the words “to or in respect of persons”, there were inserted the words “who are or were members of that section”.

(3) Schedule 6 to the Act (transfer of property, rights and liabilities to the Board) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, in paragraph 1, for the words “an occupational pension scheme”, there were substituted the words “a multi-employer section of a segregated multi-employer scheme”.

The pension compensation provisions

27.—(1) Section 162(1) of the Act (the pension compensation provisions) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for the words “in relation to a scheme”, there were substituted the words “in relation to a multi-employer section of a segregated scheme”;
- (b) in paragraphs (a) and (b), after the word “members”, there were added the words “of that section”;
- (c) in paragraph (c), after the word “payable”, there were added the words “to or in respect of members of that section”; and
- (d) at the end of paragraph (d), there were added the words “payable to or in respect of members of that section”.

(2) Section 163(2) of the Act (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, in paragraph (a), after the words “to any member”, there were inserted the words “of that section”.

(3) Section 166(1) of the Act (duty to pay scheme benefits unpaid at assessment date etc) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, for the words “assumes responsibility for a scheme”, there were substituted the words “assumes responsibility for a multi-employer section of a segregated scheme”.

(4) For Part 6 (non-segregated schemes: schemes without provision for partial wind up on withdrawal of a participating employer), substitute—

“PART 6

NON-SEGREGATED SCHEMES:

SCHEMES WITHOUT PROVISION FOR PARTIAL WIND UP ON WITHDRAWAL OF A PARTICIPATING EMPLOYER

Application and effect

61. This regulation applies to a multi-employer scheme which is not divided into two or more sections (a “non-segregated scheme”) the rules of which do not provide for the partial winding up of the scheme when an employer in relation to the scheme ceases to participate in the scheme.

Notification of insolvency events, confirmation of scheme status etc.

62.—(1) Section 120 of the Act (duty to notify insolvency events in respect of employers) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where, in the case of a multi-employer scheme which is not divided into two or more sections (a “non-segregated scheme”), an insolvency event occurs in relation to an employer in relation to the scheme.”; and

(b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a non-segregated scheme receive a notice from an insolvency practitioner under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(2) Section 122 of the Act (insolvency practitioner’s duty to issue notices confirming status of the scheme) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where an insolvency event has occurred in relation to any employer in relation to a non-segregated scheme.”;

(b) in subsections (2), (3)(a), (4) and (6), for the words “the employer”, there were substituted the words “an employer”; and

(c) after subsection (6), there were inserted the following subsection—

“(6A) Where the trustees or managers of a non-segregated scheme receive a notice issued by an insolvency practitioner or a former insolvency practitioner under subsection (6), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(3) Section 123 of the Act (approval of notices issued under section 122) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where the Board receives a notice under section 122(6) (“the section 122 notice”) in relation to an employer in relation to a non-segregated scheme at a time when the Board has previously received such a notice in relation to all other employers in relation to that scheme.”;

(b) for subsection (2), there were substituted the following subsection—

“(2) The Board must determine whether to approve the section 122 notice received in relation to that employer.”;

(c) in paragraph (e) of subsection (4), for the words “in relation to the employer, the employer”, there were substituted the words “in relation to an employer, that employer”; and

(d) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a determination notice issued by the Board under subsection (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(4) Section 124 of the Act (Board’s duty where there is a failure to comply with section 122) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

- (a) in subsection (1)—
 - (i) for the words “This section applies where in relation to an occupational pension scheme”, there were substituted the words “This section applies where in relation to a non-segregated scheme”; and
 - (ii) in paragraphs (a) and (b) of subsection (1), for the words “the employer”, there were substituted the words “an employer”;
- (b) in subsection (4)—
 - (i) in paragraph (d), for the words “the employer”, there were substituted the words “an employer”; and
 - (ii) in paragraph (e), for the words “in relation to the employer, the employer”, there were substituted the words “in relation to an employer, that employer”; and
- (c) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice issued by the Board under section 122 by virtue of this section, they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.
- (5) Section 125 of the Act (binding notices confirming status of scheme) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—
 - (a) in subsection (3)—
 - (i) in paragraph (d), for the words “the employer”, there were substituted the words “an employer”; and
 - (ii) in paragraph (e), for the words “in relation to the employer, the employer”, there were substituted the words “in relation to an employer, that employer”; and
 - (b) after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under subsection (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

Eligible schemes

63.—(1) Section 126(1) of the Act (eligible schemes) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if, for the words “an occupational pension scheme”, there were substituted the words “a non-segregated scheme”.

(2) Paragraph (1) shall not have effect in relation to sections 174 to 181 of the Act (the levies).

Duty to assume responsibility for schemes

64.—(1) Section 127 of the Act (duty to assume responsibility for schemes following insolvency event) shall have effect in relation to a scheme to which regulation 61 applies and, for this purpose, shall be modified so that it shall be read as if—

- (a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where a qualifying insolvency event has occurred in relation to an employer in relation to a non-segregated scheme.”; and

(b) for subsection (3), there were substituted the following subsection—

“(3) For the purposes of this section, an insolvency event (“the current event”) in relation to an employer in relation to an eligible scheme is a qualifying insolvency event if—

(a) it occurs—

(i) simultaneously in relation to more than one of the employers in relation to the scheme at a time when those employers are the only employers in relation to the scheme, or

(ii) in relation to an employer in relation to the scheme at a time when all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the section under section 129(1A)(5) or a notice given by the Board in respect of them under section 129(5) by virtue of a notice given by the Regulator under section 129(4)(a)(6),

(b) it occurs on or after the day appointed under section 126(2), and

(c) it—

(i) is the first insolvency event to occur in relation to that employer on or after that day, or

(ii) does not occur within an assessment period (see section 132) in relation to the scheme which began before the occurrence of the current event.”.

(2) Section 128 of the Act (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

“(1) This section applies where, in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme—

(a) the trustees or managers of the scheme make an application under subsection (1)(a) or (b) of section 129(7) (a “section 129 application”), or

(b) the Board receives a notice given by the Regulator under subsection (4)(b) of that section.”.

Applications and notifications and Board’s duty where application or notification received under section 129

65.—(1) Section 129 of the Act (applications and notifications for the purposes of section 128) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

(5) Subsection (1A) of section 129 of the Pensions Act 2004 is inserted by the modification in regulation 65(1)(b) as substituted by these Regulations.

(6) Subsection (4) of section 129 of the Pensions Act 2004 is substituted by the modification in regulation 65(1)(c) as substituted by these Regulations.

(7) Subsection (1) of section 129 of the Pensions Act 2004 is substituted by the modification in regulation 65(1)(a) as substituted by these Regulations.

“(1) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme—

(a) have—

(i) notified the Board in accordance with subsection (1A) that an employer in relation to the scheme is unlikely to continue as a going concern at a time when all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), or

(ii) received a notice given by the Board under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a) in respect of an employer in relation to the scheme at a time when all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), or

(b) are aware that a person is no longer an employer, or that persons are no longer employers, in relation to the scheme at a time when—

(i) all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), and

(ii) at least one such insolvency event occurred, or at least one such notice was given under subsection (1A) or (5) by virtue of a notice given by the Regulator under subsection (4)(a), on or after 6th April 2005 in relation to an employer in relation to that scheme,

they must, except where an assessment period has already begun in relation to that scheme, make an application to the Board for it to assume responsibility for the scheme under section 128.”; and

(b) after subsection (1), there were inserted the following subsections—

“(1A) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that an employer in relation to the scheme—

(a) is unlikely to continue as a going concern, and

(b) the prescribed requirements are met in relation to that employer, they must give the Board a notice to that effect.

(1B) The notice which must be given to the Board in accordance with subsection (1A) must be in writing and must contain the following information—

- (a) a description of the type or purpose of the notice,
- (b) the name of the employer in relation to the scheme in respect of which the notice is given,
- (c) a statement by the trustees or managers of the scheme that the employer in respect of which the notice is given is unlikely to continue as a going concern and that the requirements prescribed under subsection (1A)(b) have been met in relation to that employer,
- (d) the date on which the trustees or managers of the scheme became aware that the employer in respect of which the notice is given is unlikely to continue as a going concern, and
- (e) the date on which the notice was sent to the Board by the trustees or managers of the scheme.

(1C) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme make an application to the Board under subsection (1)(a) or (b), they must as soon as practicable notify that fact to all the employers in relation to the scheme.”;

(c) for subsection (4), there were substituted the following subsection—

“(4) Where, in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, the Regulator—

- (a) becomes aware that an employer in relation to the scheme—
 - (i) is unlikely to continue as a going concern, and
 - (ii) meets the requirements prescribed under subsection (1A)(b), or
- (b) is aware that a person is no longer an employer, or that persons are no longer employers, in relation to the scheme at a time when—
 - (i) all other employers in relation to the scheme have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under subsection (1A) or (5) by virtue of a notice given by the Regulator under subsection (4)(a), on or after 6th April 2005 in relation to an employer in relation to that scheme,

it must, except where an assessment period has already begun in relation to the scheme, give the Board a notice to that effect.”; and

(d) after subsection (5), there were inserted the following subsection—

“(5A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under subsection (5), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”

(2) Section 130 of the Act (Board’s duty where application or notification received under section 129) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) This section applies where the Board—

(a) receives an application under subsection (1) of section 129 and is satisfied that either paragraph (a) or (b) of that subsection is satisfied in relation to the application, or

(b) is notified by the Regulator under section 129(4)(b).”;

(b) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under subsection (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and

(c) after subsection (7), there were inserted the following subsection—

“(7A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”

Assessment periods

66. Section 132 of the Act (assessment periods) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) in subsection (2)—

(i) for the words “in relation to an eligible scheme”, there were substituted the words “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme”;

(ii) for the words “the employer”, there were substituted the words “an employer in relation to the scheme”; and

(iii) after the words “an assessment period”, there were inserted the words “in relation to the scheme”;

(b) in subsection (4), for the words “in relation to an eligible scheme, an application is made under section 129(1) or a notification is received under section 129(5)(a), an assessment period”, there were substituted the words “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under section 129(1)(a) or (b) or a notification is received under section 129(4)(b), an assessment period in relation to the scheme”; and

(c) in subsection (5), for the words “section 129(5)(a)”, there were substituted the words “section 129(4)(b)”.

Power to validate contraventions of section 135 and Board to act as creditor of the employer

67.—(1) Section 136(2)(of the Act (power to validate contraventions of section 135) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read

as if, for the words “in relation to the employer, or if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(2) Section 137(2) of the Act (Board to act as creditor of the employer) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if, for the words “the employer”, there were substituted the words “an employer”.

Valuation of assets

68. Sections 144(2)(b)(iii) (approval of valuation) and 145(3)(c) (binding valuations) of the Act shall be modified in their application to a scheme to which regulation 61 applies so that they shall be read as if, for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

Refusal to assume responsibility

69.—(1) The provisions of the Act specified in paragraph (2) shall be modified in their application to a scheme to which regulation 61 applies so that they shall be read as if, for the words “in relation to the employer or, if there is no such insolvency practitioner, the employer”, there were substituted the words “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(2) The provisions specified in this paragraph are—

- (a) section 146(2)(b)(iii) and (4)(c) (schemes which become eligible schemes); and
- (b) section 147(2)(b)(iii) and (4)(c) (new schemes created to replace existing schemes).

(3) Section 148(5)(c) and (7)(c) of the Act (withdrawal following issue of section 122(4) notice) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if, for the words “the employer”, there were substituted the words “any employer”.

Transfer notice and the pension compensation provisions

70.—(1) Section 160 of the Act (transfer notice) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) in subsection (1), for the words “where the Board is required to assume responsibility for a scheme”, there were substituted the words “where the Board is required to assume responsibility for a non-segregated scheme”;

(b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a non-segregated scheme receive a transfer notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and

(c) for subsection (6), there were substituted the following subsection—

“(6) The Board must give a copy of the transfer notice given under subsection (2) to—

- (a) the Regulator, and
- (b) an insolvency practitioner acting in relation to every employer in relation to the scheme in respect of which the transfer notice is given.”.

(2) Schedule 6 to the Act (transfer of property, rights and liabilities to the Board) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read

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as if, in paragraph 1, for the words “an occupational pension scheme”, there were substituted the words “a non-segregated multi-employer scheme”.

(3) Schedule 7 to the Act (pension compensation provisions) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if, in paragraph 1, for the words “an eligible scheme”, there were substituted the words “a non-segregated multi-employer scheme which is, for the purposes of Part 2, an eligible scheme”.”.