
STATUTORY INSTRUMENTS

2005 No. 2113

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

Amendment of the definition of “employer” in relation to a multi-employer scheme or a section of a multi-employer scheme

6.—(1) For the second definition of “employer” (“employer” in relation to a multi-employer scheme or a section of a multi-employer scheme) in each of the provisions specified in paragraph (2), substitute—

““employer”, in relation to a non-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⁽¹⁾ (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 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;
 - (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

⁽¹⁾ Section 75 was amended by section 271 of the Pensions Act 2004.

- (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but 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;”.
- (2) The specified provisions are—
- (a) paragraph (2) of regulation 1 of the Compensation Regulations; and
 - (b) paragraph (2) of regulation 1 of the Review and Reconsideration Regulations.
- (3) For paragraph (5) of regulation 1 of the Entry Rules Regulations, substitute—
- “(5) In these Regulations, “employer”, in relation to a non-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 1995 Act 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 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 1995 Act became due from that employer and the full amount of the debt has been paid;
 - (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;
 - (iii) condition C is that such a debt became due but 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.”.
- (4) For paragraph (3) of regulation 2 of the Provision of Information Regulations, substitute—
 - “(3) In these Regulations, “employer”, in relation to a non-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 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 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;
 - (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;
 - (iii) condition C is that such a debt became due but 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.”.

(5) For the second definition of “employer” in paragraph (2) of regulation 1 of the Valuation Regulations, substitute—

““employer”, in relation to a non-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 section 75 debt 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 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 section 75 debt became due from that employer and the full amount of the debt has been paid;
 - (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;
 - (iii) condition C is that such a debt became due but 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;”.