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## STATUTORY INSTRUMENTS

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### 2005 No. 2184

## The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005

### **Segregated schemes: non-segregated multi-employer sections of segregated schemes with requirement for partial wind up on withdrawal of participating employer** **E+W+S**

**16.**—(1) This paragraph applies to a non-segregated multi-employer section of a segregated scheme in circumstances where—

- (a) an insolvency event occurs in relation to an employer in relation to that section;
- (b) the trustees or managers of the scheme become aware that an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 7 of the Entry Rules Regulations; or
- (c) an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 4 of these Regulations.

(2) Where paragraph (3) applies to that section of a segregated scheme—

- (a) the segregation requirements shall be deemed to have been triggered in relation to an employer immediately after the occurrence of an event described in paragraph (1)(a), (b) or (c); and
- (b) a segregated part of the section shall be deemed to have been created for and in respect of any period after the occurrence of an event described in paragraph (1)(a), (b) or (c) where—
  - (i) a withdrawal event within the meaning of section 149(2) (withdrawal events), or
  - (ii) a cessation event in relation to a notice referred to in section 182(9)(b)(iv),has not occurred in relation to the segregated part.

(3) This paragraph applies where the segregation requirement in the scheme rules would be triggered in relation to the section when an employer in relation to the section ceases to participate in the scheme.

(4) In this regulation—

“non-segregated multi-employer section” means a multi-employer section of a segregated scheme where the rules contain a segregation requirement;

“the segregation requirement” means the requirement on the trustees or managers under the scheme rules of a non-segregated multi-employer section to segregate such part of the assets of the section as is attributable to the section's liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer, in relation to the section, where that employer ceases to participate in the scheme;

“segregated part” means a part of a non-segregated multi-employer section which is created when a segregation requirement in the scheme rules relating to that multi-employer section of the scheme has been triggered.

(5) The fraud compensation provisions shall be modified in their application to a non-segregated multi-employer section to which paragraphs (1) and (2) apply so that they shall be read as if—

- (a) references to “an occupational pension scheme” were references to a segregated part of a non-segregated multi-employer section in circumstances where that part, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with section 182(1);
- (b) references to “an eligible scheme” were references to a segregated part of a non-segregated multi-employer section of a segregated scheme in circumstances where that part, if it were a scheme, would be an eligible scheme;
- (c) except as otherwise provided in this regulation, references to—
  - (i) “the scheme” were to “the segregated part”;
  - (ii) “the employer” were to “the employer in relation to the segregated part”;
  - (iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the section”;
- (d) for paragraph (a) of section 182(2) there were substituted—
  - “(a) a qualifying insolvency event has occurred in relation to an employer in relation to a multi-employer section of the segregated scheme and a segregated part of the section is created,”;
- (e) in section 182(2)(b) for “in relation to the scheme” there were substituted “ in relation to the relevant segregated part of a multi-employer section of the segregated scheme ”;
- (f) in section 182(2)(c)(ii) after “the scheme failure notice” there were inserted “ in relation to the relevant segregated part of a multi-employer section of the segregated scheme ”;
- (g) in section 182(3)(b) after “scheme failure notice” there were inserted “ in relation to the relevant segregated part of a multi-employer section of the segregated scheme ”;
- (h) for paragraph (b) of section 182(4) there were substituted—
  - “(b) an employer in relation to a multi-employer section of the segregated scheme is unlikely to continue as a going concern and a segregated part of the section is created,”;
- (i) in section 182(4)(c) for “the employer” there were substituted “ that employer ”;
- (j) in section 182(7) for “a scheme” there were substituted “ a segregated part ”;
- (k) in section 182(9)(a) and (c) for “a scheme” in each place where it occurs there were substituted “ a segregated part ”;
- (l) in section 183(1) after “section 182 apply” there were inserted “ to a relevant segregated part of a multi-employer section of the segregated scheme ”;
- (m) in section 183(2)(a) and (b) after “scheme rescue” in both places where it occurs there were inserted “ in relation to the relevant segregated part of a multi-employer section of the segregated scheme ”;
- (n) after section 183(3) there were inserted—
  - “(3A) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under subsection (3) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”;
- (o) after section 185(5) there were added—
  - “(6) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under subsection (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”.

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005, Section 16.