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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make further provision about section 43 and related sections of the Pensions Act 2004 (c. 35) (“the Act”), known as one of the anti-avoidance provisions, that is, the Regulator's power to issue financial support directions. They also, in relation to all the anti-avoidance provisions (that is, contribution notices, financial support directions and restoration orders) extend the meaning of employer to include former employers in specified circumstances and modify those provisions of the Act in their application to multi-employer schemes. As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the sections of the Act by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply. Regulation 2 defines the meanings of terms used in the regulations. Regulation 3 prescribes those schemes to which the provisions on financial support directions do not apply. Regulation 4 prescribes those events the occurrence of which must be notified to the Regulator. Regulation 5 prescribes the period which is the “relevant time” for the purposes of the provisions on financial support directions, being the period during which, for example, the employer or an associated or connected person must meet the conditions set out in the test as to whether or not the employer is insufficiently resourced. Regulation 6 prescribes the percentage of the estimated section 75 debt which relates to the test as to whether or not the employer is insufficiently resourced. Regulation 7 sets out what constitutes the resources of persons to whom that test applies. Regulation 8 prescribes how the value of such a person's resources is to be determined. Regulation 9 prescribes the calculation to be undertaken to determine the value of the resources of a business to which the test applies. Regulation 10 prescribes what will constitute the verification of the value of the resources. Regulation 11 sets out the calculation and the verification of the resources of an individual associated with the employer in a capacity other than a business associate, to whom the test applies. Regulation 12 allows the Regulator to deem the value of the resources of a person, in circumstances where that person has failed to co-operate with the Regulator. Regulations 13 and 14 prescribe requirements and arrangements in respect of arrangements to be put in place in compliance with a financial support direction. Regulation 15 extends the meaning of “employer” in relation to the anti-avoidance provisions of the Act to include former employers in certain circumstances. Regulation 16 modifies the sections of the Act relating to the anti-avoidance provisions to apply to multi-employer schemes.

An assessment of the impact of these Regulations on business, charities and the voluntary sector has been made. Copies of the Regulatory Impact Assessment have been placed in the libraries of both Houses of Parliament. Additional copies can be obtained from the Department for Work and Pensions, Regulatory Impact Unit, level 3, Adelphi, 1-11 John Adam Street, London WE2N 6HT.

**Changes to legislation:**

There are currently no known outstanding effects for the The Pensions Regulator (Financial Support Directions etc.) Regulations 2005.