

---

STATUTORY INSTRUMENTS

---

**2005 No. 441**

**The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005**

**PART 5**

NON-SEGREGATED SCHEMES:

SCHEMES WITH A REQUIREMENT FOR PARTIAL WIND UP  
ON THE WITHDRAWAL OF A PARTICIPATING EMPLOYER

**Application and effect**

- 45.**—(1) This regulation applies to a non-segregated scheme in circumstances where—
- (a) an insolvency event occurs in relation to an employer in relation to the scheme; or
  - (b) the trustees or managers of the scheme become aware that an employer in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed under subsection (1)(b) of section 129 of the Act (applications and notifications for the purposes of section 128).
- (2) Where—
- (a) in relation to an employer in relation to a non-segregated scheme, an event described in paragraph (1)(a) or (b) occurs; and
  - (b) the requirement in the scheme rules for the trustees or managers of the scheme to segregate such part of the assets of the scheme as is attributable to the scheme'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 scheme (“the segregation requirement”) would be triggered when an employer in relation to the scheme ceases to participate in the scheme,

the segregation requirement shall, in relation to the employer referred to in sub-paragraph (a) of this paragraph, be deemed to have been triggered immediately after the occurrence of the event described in paragraph (1)(a) or (b) and a segregated part of the scheme shall be deemed to have been created for and in respect of any period after the occurrence of that event where a withdrawal event within the meaning of section 149(2) of the Act has not occurred in relation to the segregated part.

- (3) In this Part—

“non-segregated scheme” means a multi-employer scheme which is not divided into two or more sections under the rules of which the trustees or managers are required, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme'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 that employer; and

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

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)*

- (4) Except as otherwise provided in this Part of these Regulations, in a case where this regulation applies—
- (a) Part 2 of the Act, except Chapter 4, 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 “rules of the scheme which apply to the segregated part”;
    - (ii) “the scheme” shall be read as if they were references to “the segregated part”;
    - (iii) “the employer” shall be read as if they were references to “the employer in relation to the segregated part”;
    - (iv) “trustees or managers of the scheme” shall, in relation to a segregated part of a non-segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the segregated part” <sup>[F1]</sup>; and
  - (c) Part 2 of the Act shall be read as if section 143A were omitted]
- (5) Paragraph (4) shall not have effect in relation to section 174 of the Act (initial levy).

#### Textual Amendments

- F1** Reg. 45(4)(c) and word inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **2(14)** (with reg. 9(1)(b)(2), 10)

#### Commencement Information

- II** Reg. 45 wholly in force 6.4.2005; reg. 45 not in force at made date; reg. 45(4)(b) in force at 9.3.2005 for certain purposes and reg. 45 in force at 6.4.2005 in so far as not already in force, see reg. 1(1)(a)(d)

#### Notification of insolvency events, confirmation of scheme status etc.

**46.**—(1) Section 120 of the Act (duty to notify insolvency events in respect of employers) shall be modified in its application to a segregated part to which regulation 45 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 occurs in relation to an employer in relation to a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”) under the rules of which the trustees or managers of the scheme are required, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme's liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to that employer (“the segregated part”).”; and

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

“(2A) Where the trustees or managers of a segregated part 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 scheme) shall be modified in its application to a segregated part to which regulation 45 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 an employer in relation to a non-segregated scheme and a segregated part of the scheme is created.”;
- (b) in subsection (2)—
- (i) after the words “a scheme rescue is not possible” in paragraph (a), there were inserted the words “ in relation to a segregated part ”; and
- (ii) after the words “a scheme rescue has occurred” in paragraph (b), there were inserted the words “ in relation to a segregated part ”;
- (c) in subsection (4)—
- (i) after the words “a scheme rescue is not possible” in paragraph (a), there were inserted the words “ in relation to the relevant segregated part ”; and
- (ii) after the words “a scheme rescue has occurred” there were inserted the words “ in relation to the relevant segregated part ”;
- [<sup>F2</sup>(d) 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 segregated part of a non-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 segregated part”; and]
- (e) after subsection (6), there were inserted the following subsection—
- “(6A) Where the trustees or managers of a segregated part of a non-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 the scheme.”.
- (3) Section 123 of the Act (approval of notices issued under section 122) shall be modified in its application to a segregated part to which regulation 45 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 a segregated part of a non-segregated scheme.”; and
- (b) after subsection (4), there were inserted the following subsection—
- “(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a determination 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.”.
- (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 segregated part to which regulation 45 applies so that it shall be read as if—
- (a) for the words “This section applies where, in relation to an occupational pension scheme” in subsection (1), there were substituted the words “ This section applies where, in relation to a segregated part of a non-segregated scheme ”; and
- (b) after subsection (4), there were inserted the following subsection—
- “(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a notice issued by the Board under [<sup>F3</sup>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.”.

**Status:** Point in time view as at 01/04/2005.

**Changes to legislation:** There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)

(5) Section 125 of the Act (binding notices confirming status of the scheme) shall be modified in its application to a segregated part to which regulation 45 applies so that <sup>F4</sup>it shall be read as if after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a segregated part 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.”

#### Textual Amendments

- F2** Reg. 46(2)(d) substituted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **5(6)(a)(i)**
- F3** Words in reg. 46(4)(b) substituted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **5(6)(a)(ii)**
- F4** Words in reg. 46(5) inserted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **5(6)(a)(iii)**

#### Commencement Information

- I2** Reg. 46 wholly in force at 6.4.2005; reg. 46 not in force at made date; reg. 46(2)(d) in force at 9.3.2005 for certain purposes and reg. 46 in force at 6.4.2005 in so far as not already in force, see reg. 1(1)(a)(d)

#### Eligible schemes

**47.**—(1) Except as otherwise provided in this Part, for the purposes of Part 2 of the Act, except Chapter 4, as it applies in the case of a segregated part to which regulation 45 applies, references to “an eligible scheme” shall be read as if they were references to a segregated part of the scheme in circumstances where that segregated part, 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) above shall not apply for the purposes of sections 174 to 181 of the Act (the levies).

#### Commencement Information

- I3** Reg. 47 partly in force; reg. 47 not in force at made date; reg. 47 in force at 1.4.2005 for certain purposes and reg. 47 in force at 6.4.2005 in so far as not already in force, see reg. 1(1)(c)(d)

#### Duty to assume responsibility for schemes

**48.**—(1) Section 127 of the Act (duty to assume responsibility for schemes following insolvency event) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, after the words “at the relevant time” in paragraph (a) of subsection (2), there were inserted the words “as determined by the Board's valuation of the scheme under section 143, was less than the amount of the protected liabilities of that part as determined by that valuation”.

(2) Section 128 of the Act (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, after the words <sup>F5</sup>... “at the relevant time” in paragraph (a) of

subsection (2), there were inserted the words “ as determined by the Board's valuation of the scheme under section 143, was less than the amount of the protected liabilities of that part as determined by that valuation ”.

(3) Section 129 of the Act (applications and notifications for the purposes of section 128) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

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

“(1A) Where the trustees or managers of a segregated part of a non-segregated scheme make an application to the Board under subsection (1), they must issue a notice to that effect as soon as practicable to all the employers in relation to the scheme.”; and

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

“(5A) Where the trustees or managers of a segregated part of a non-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 the scheme.”.

#### Textual Amendments

**F5** Word in reg. 48(2) omitted (1.4.2005) by virtue of [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **5(6)(b)**

#### Board's duty where application or notification received under section 129

**49.** Section 130 of the Act (Board's duty where application or notification received under section 129) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

(a) after the words “a scheme rescue is not possible” in subsection (2), there were inserted the words “ in relation to a segregated part of a non-segregated scheme ”;

(b) after the words “a scheme rescue has occurred” in subsection (3), there were inserted the words “ in relation to a segregated part ”;

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

“(4A) Where the trustees or managers of a segregated part 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.”;

[<sup>F6</sup>(d) 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 segregated part of a non-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 segregated part”; and]

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

“(7A) Where the trustees or managers of a segregated part 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.”.

**Status:** Point in time view as at 01/04/2005.

**Changes to legislation:** There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)

### Textual Amendments

- F6** Reg. 49(d) substituted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **5(6)(c)**

### Commencement Information

- I4** Reg. 49 wholly in force at 6.4.2005; reg. 49 not in force at made date; reg. 49(d) in force at 9.3.2005 for certain purposes and reg. 49 in force at 6.4.2005 in so far as not already in force, see reg. 1(1)(a)(d)

## Protected liabilities and assessment period

**50.**—(1) Section 131 of the Act (protected liabilities) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

“(1) Except as otherwise provided, for the purposes of this Chapter the protected liabilities, in relation to a segregated part of a non-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 segregated part which correspond to the compensation which would be payable, in relation to members of that part in accordance with the pension compensation provisions (see section 162) if the Board assumed responsibility for the segregated part in accordance with this Chapter,
- (b) a proportion of the liabilities of the scheme as a whole, as calculated in the Board's valuation under section 143, which are not liabilities to, or in respect of, members,
- (c) the estimated cost of winding up the segregated part.”.

(2) Section 132 of the Act (assessment periods) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, after the words “an assessment period” in subsection (2), there were inserted the words “ in relation to a segregated part of a non-segregated scheme ”.

## Directions

**51.** Section 134 of the Act (directions) shall be modified in its application to a segregated part to which regulation 45 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 segregated part do not exceed its assets ”;
  - (ii) for the words “in relation to the scheme” there were substituted the words “ in relation to the non-segregated scheme in question ”;
  - (iii) for the words “the investment of the scheme's assets” in paragraph (a), there were substituted the words “ the investment of the assets of the segregated part ”; and
- (b) for subparagraph (i) of paragraph (a) of subsection (3), there were substituted the following paragraph—
  - “(i) any trustees or managers of the scheme in relation to which the segregated part relates,”.

### Restrictions on winding up, discharge of liabilities etc and power to validate contraventions of section 135

52.—(1) Section 135 of the Act (restrictions on winding up, discharge of liabilities etc) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) after the words “the winding up of the scheme” in subsection (2), there were inserted the words “ under or by virtue of the scheme rules ”; and
- (b) after subsection (4), there were inserted the following subsection—

“(4A) Where an assessment period has begun in relation to a segregated part of a non-segregated scheme, the trustees or managers shall not, without the prior approval of the Board, take any action to discharge or transfer any of the assets in that part or any assets that may be assigned to that part.”.

(2) Section 136 of the Act (power to validate contraventions of section 135) shall be modified in its application to a segregated part to which regulation 45 of these Regulations applies so that it shall be read as if, after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive 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 the scheme.”.

### Board to act as creditor of the employer

53. Section 137 of the Act (Board to act as creditor of the employer) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) after the words “due to them by the employer” in subsection (2), there were inserted the words “ in respect of the protected liabilities that are included in the segregated part ”; and
- (b) after subsection (3), there were added the following subsection—

“(3A) Where an amount is paid to the trustees or managers of a non-segregated multi-employer scheme in respect of any debt owed to the scheme by the employer in relation to a segregated part of the scheme which does not relate to the employer's liabilities to or in respect of members of the scheme who are not designated to that segregated part, that amount shall be applied by the trustees or managers of the scheme towards the liabilities of the scheme as a whole.”.

### [<sup>F7</sup>III health pensions

53A.—(1) Section 141 of the Act (effect of a review) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) in subsection (4) the words “a determination under section 143(2)(a) or” were omitted; and
- (b) in subsection (5)(a) the words “makes a determination under section 143(2)(a) or” were omitted.

(2) Section 142(1) of the Act (sections 140 and 141: interpretation) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if for the words “143(2)(b)” in the definition of “scheme valuation” there were substituted the word “143”.]

#### Textual Amendments

F7 Reg. 53A inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **2(15)** (with reg. 9(1)(b)(2), 10)

**Valuation of assets**

**54.**—(1) Section 143 of the Act (Board's obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if—

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

“(1) This section applies in a case within subsection (1) of section 127 or 128 which relates to a non-segregated scheme.”; and

[<sup>F8</sup>(b) for subsection (2) there were substituted the following subsection—

“(2) For the purposes of determining whether the condition in subsection (2)(a) of the section in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the section as a whole and of the segregated part as at the relevant time.”;]

[<sup>F9</sup>(ba) subsection (2A) were omitted;

(bb) for the words “a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b)” in subsection (4), there were substituted the words “this section”;

(bc) subsection (5C) were omitted;

(bd) in subsection (6), the words “for the purposes of an actuarial valuation obtained under subsection (2)(b)” were omitted;]

(c) for the words “the scheme's liabilities” in subsection (7), there were substituted the words “the liabilities of the scheme or the segregated part”; <sup>F10</sup> ...

[<sup>F11</sup>(ca) in subsection (9)—

(i) for the words “requires a determination to be made, or an”, there were substituted the words “requires the”; and

(ii) the words “the determination or” were omitted;

(cb) for the words “requires a determination to be made, or an” in subsection (10), there were substituted the words “requires the”;

(d) in subsection (11)—

(i) for the words “ “actuarial valuation”, in relation to the scheme, means a written valuation of the assets and protected liabilities of the scheme” in paragraph (a), there were substituted the words “ “actuarial valuation”, in relation to the scheme as a whole and the segregated part, means a written valuation of the assets and protected liabilities of the scheme as a whole and the segregated part ”;

[<sup>F12</sup>(ia) the words “makes a determination under subsection (2)(a) or” in paragraph (b)(ii) were omitted; and]

(ii) the word “ and ” at the end of paragraph (c)(ii) were omitted; and

(iii) after paragraph (d), there were added the following paragraph—

“(e) “protected liabilities” means, in relation to a non-segregated scheme, the cost of securing benefits for and in respect of members of the scheme which correspond to the compensation which would be payable, in relation to the scheme, in accordance with the pension compensation provisions (see section 162) if the Board assumed responsibility for the scheme in accordance with this Chapter.”.

(2) Section 144 of the Act (approval of valuation) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—



- [<sup>F13</sup>(a) for the words “obtains a valuation in respect of a scheme under section 143(2)(b)” in subsection (1), there were substituted the words “obtains a valuation or a further valuation in respect of the section as a whole and of the segregated part under section 143”; and]
- (b) after subsection (2), there were inserted the following subsection—
- “(2A) Where the trustees or managers of a segregated part of a non-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 the scheme.”.
- (3) Section 145 of the Act (binding valuations) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—
- [<sup>F14</sup>(a) for the words “a valuation obtained under section 143(2)(b) is not binding” in subsection (1), there were substituted the words “a valuation or a further valuation obtained under section 143 of the section as a whole and of the segregated part is not binding”];
- (b) for the words “in relation to a scheme” in subsection (2), there were substituted the words “in relation to a non-segregated scheme in relation to which there is a segregated part”; and
- (c) after subsection (3), there were inserted the following subsection—
- “(3A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under subsection (3) together with a copy of the binding valuation, they must send a copy of that notice and the binding valuation as soon as practicable to all the employers in relation to the scheme.”.

#### Textual Amendments

- F8** Reg. 54(1)(b) substituted (24.1.2013) by The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(a)** (with reg. 9(1)(b)(2), 10)
- F9** Reg. 54(1)(ba)-(bd) inserted (24.1.2013) by The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(b)** (with reg. 9(1)(b)(2), 10)
- F10** Word in reg. 54(1)(c) omitted (24.1.2013) by virtue of The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(c)** (with reg. 9(1)(b)(2), 10)
- F11** Reg. 54(1)(ca)(cb) inserted (24.1.2013) by The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(d)** (with reg. 9(1)(b)(2), 10)
- F12** Reg. 54(1)(d)(ia) inserted (24.1.2013) by The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(e)** (with reg. 9(1)(b)(2), 10)
- F13** Reg. 54(2)(a) substituted (24.1.2013) by The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(f)** (with reg. 9(1)(b)(2), 10)
- F14** Reg. 54(3)(a) substituted (24.1.2013) by The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083), regs. 1(2)(b), **2(16)(g)** (with reg. 9(1)(b)(2), 10)

#### Commencement Information

- I5** Reg. 54 wholly in force at 6.4.2005; reg. 54 not in force at made date; reg. 54(1)(d)(i) in force at 9.3.2005 for certain purposes and reg. 54 in force at 6.4.2005 in so far as not already in force, see reg. 1(1)(a)(d)

#### Refusal to assume responsibility for a scheme

**55.**—(1) Section 146 of the Act (schemes which become eligible schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if—

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

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)*

- “(1) Regulations may provide that where the Board is satisfied that a non-segregated scheme, or a segregated part of such a scheme, is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that part of the scheme under this Chapter.”;
- (b) for the words “a scheme” in subsection (2), there were substituted the words “a segregated part of a non-segregated scheme”;
- (c) after subsection (2), there were inserted the following subsection—
- “(2A) Where the trustees or managers of a segregated part of a non-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 the scheme.”; and
- (d) after subsection (4), there were inserted the following subsection—
- “(4A) Where the trustees or managers of a segregated part of a non-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 the scheme.”.
- (2) Section 147 of the Act (new schemes created to replace existing schemes) shall be modified in its application to a segregated part to which regulation 45 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 segregated part of a non-segregated scheme (“the new scheme”) under this Chapter where it is satisfied that—
- (a) the new scheme was established during such period as may be prescribed,
- (b) the employer in relation to the segregated part was, at the date of establishment of the new scheme, also an employer in relation to another scheme (“the old scheme”) established before the new scheme,
- (c) the assignment of scheme assets made to the new scheme has been made in respect of any rights of members under the old scheme, and
- (d) the main purpose or one of the main purposes of establishing the new scheme 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 assignment, regulations under section 146 would have operated to prevent such payments in respect of their rights under the old scheme.”;
- (b) after subsection (2), there were inserted the following subsection—
- “(2A) Where the trustees or managers of a segregated part of a non-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 the scheme.”; and
- (c) after subsection (4), there were inserted the following subsection—
- “(4A) Where the trustees or managers of a segregated part of a non-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 the scheme.”.
- (3) Section 148 of the Act (withdrawal following issue of section 122(4) notice) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) after subsection (5), there were inserted the following subsection—
- “(5A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under this section, they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
- (b) after subsection (7), there were inserted the following subsection—
- “(7A) Where the trustees or managers of a segregated part 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.”.

#### Commencement Information

- I6** Reg. 55 wholly in force at 6.4.2005; reg. 55 not in force at made date; reg. 55(1)(a)(2)(a) in force at 9.3.2005 for certain purposes and reg. 55 in force at 6.4.2005 in so far as not already in force, see reg. 1(1)(a)(d)

#### Reconsideration

**56.**—<sup>F15</sup>(1) Section 151 of the Act (application for reconsideration) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) for the words “the determination made by the Board or the valuation obtained by the Board in respect of the scheme under section 143(2)” in subsections (2)(b) and (3)(b), there were substituted the words “the valuation obtained by the Board under section 143 in respect of the segregated part”;
- (b) the words “determination or” in paragraphs (a)(ii) and (b)(ii) of subsection (6) were omitted;
- (c) in the definition of “protected benefits quotation” in subsection (8), from the words “in relation to a scheme” to “the reconsideration time” there were substituted—
- “in relation to a segregated part of a non-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 segregated part from the trustees or managers of the scheme, which would provide in respect of each member of the segregated part from the reconsideration time”; and
- (d) for the words “under section 143(2)(b)” in subsection (10), there were substituted “under that section”.]

(2) Section 152 of the Act (duty to assume responsibility following reconsideration) shall be modified in its application to a segregated part to which regulation 45 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 application is made in respect of a segregated part of a non-segregated scheme in accordance with section 151.”;
- (b) for subsection (2), there were substituted the following subsection—
- “(2) The Board must assume responsibility in accordance with this Chapter for a segregated part of a non-segregated scheme if it is satisfied that the value of the assets of the segregated part at the reconsideration time is less than the aggregate of—
- (a) the amount quoted in the protected benefits quotation accompanying the application;

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)*

- (b) a proportion of the amount of the liabilities of the scheme as a whole at that time, as calculated in the Board's valuation of the segregated part referred to in <sup>F16</sup>subsection (2) or (3) of section 151], which are not liabilities to, or in respect of, members of the scheme;
- (c) the estimated costs of winding up the segregated part at that time.”;
- (c) after subsection (3), there were inserted the following subsection—
  - “(3A) Where the trustees or managers of a segregated part of a non-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 the scheme.”;
- (d) after subsection (7), there were inserted the following subsection—
  - “(7A) Where the trustees or managers of a segregated part 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.”.

#### Textual Amendments

- F15** Reg. 56(1) substituted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **2(17)** (with reg. 9(1)(b)(2), 10)
- F16** Words in reg. 56(2)(b) substituted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **5(6)(d)**

#### <sup>F17</sup>Closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets)

**57.—**(1) Section 153 of the Act (closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) for the words “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” in subsection (1), there were substituted the words “ (scheme rescue not possible in relation to segregated part of a non-segregated scheme but segregated part has sufficient assets to meet the protected liabilities) ”;
- (b) for the words “a closed scheme” in subsection (2), there were substituted the words “ a closed section of a scheme ”;
- (c) for the words “a closed scheme” in subsection (5), there were substituted the words “ a closed section of a scheme ”;
- (d) after subsection (6), there were inserted the following subsection—
  - “(6A) Where the trustees or managers of a segregated part of a non-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 the scheme.”; and
- (e) for the definition of “full buy-out quotation” in subsection (7), there were substituted the following definition—
  - ““full buy-out quotation”, in relation to a segregated part of a non-segregated scheme, means a quotation for one or more annuities from one or more insurers (being companies willing to accept payment in respect of members of the segregated part from the trustees or managers of the scheme) which would provide in respect of each of those members, from a relevant date, benefits in accordance with the member's entitlement or accrued rights,

including pension credit rights, under the scheme rules (other than entitlement or rights in respect of money purchase benefits).”

(2) 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 segregated part to which regulation 45 applies so that it shall be read as if—

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

[<sup>F18</sup>(aa) the words “determination made by the Board or” in subsection (5)(b), were omitted;]

(b) for the words “a scheme is wound up” in subsection (6), there were substituted the words “ a segregated part of a non-segregated scheme is wound up ”;

(c) for the words “winding up of a scheme” in subsection (11), there were substituted the words “ winding up of a segregated part of a non-segregated scheme ”; and

(d) for the words “in relation to a scheme” in subsection (12), there were substituted the words “ in relation to a segregated part of a non-segregated scheme ”.

(3) Section 155 of the Act (treatment of closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if—

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

“(1) In this section “closed scheme” means a segregated part of a non-segregated scheme which is, for the purpose of this Part, an eligible scheme which is authorised under section 153 to continue as a closed section of the scheme.”; and

(b) after the words “The provisions mentioned in subsection (3)” in subsection (2), there were inserted the words “ as they apply to a segregated part of a non-segregated scheme ”.

(4) Section 156 of the Act (valuations of closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if—

(a) for the words “closed schemes” in subsection (1) and paragraph (a) of subsection (2), there were substituted the words “ a closed segregated part of a non-segregated scheme which is authorised under section 153 to continue as a closed section of a scheme ”; and

(b) for the words “closed scheme” in subsection (5), there were substituted the words “ closed segregated part of a non-segregated scheme which is authorised under section 153 to continue as a closed section of a scheme ”.

(5) Section 157 of the Act (applications and notifications where closed schemes have sufficient assets) shall be modified in its application to a segregated part to which regulation 45 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 segregated part of a non-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 the scheme.”.

[<sup>F19</sup>(6) Section 158 of the Act (duty to assume responsibility for closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

(a) for subsection (3), there were inserted the following subsection—

“(3) For the purposes of determining whether the condition in subsection (1) is satisfied the Board must, as soon as reasonably practicable, obtain an actuarial valuation (within the meaning of section 143) of the segregated part as at the relevant time.”;

(b) subsection (3A) were omitted;

(c) in subsection (5)–

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)*

- (i) for the words “a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b)” there were substituted the words “a valuation obtained under subsection (3)”;
- (ii) for the words “a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b)” there were substituted the words “a valuation obtained under section 143”; and
- (iii) paragraph (aa) were omitted; and
- (d) in subsection (6)—
  - (i) “, 143A” were omitted; and
  - (ii) paragraph (aa) were omitted.]

#### Textual Amendments

- F17** Words in reg. 57 heading substituted (1.4.2005) by *The Occupational Pension Schemes and Pension Protection Fund (Amendment) Regulations 2005 (S.I. 2005/993)*, regs. 1(1), **5(6)(e)**
- F18** Reg. 57(2)(aa) inserted (24.1.2013) by *The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083)*, regs. 1(2)(b), **2(18)(a)** (with reg. 9(1)(b)(2), 10)
- F19** Reg. 57(6) inserted (24.1.2013) by *The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083)*, regs. 1(2)(b), **2(18)(b)** (with reg. 9(1)(b)(2), 10)

#### Transfer notices and assumption of responsibility for a scheme

**58.**—(1) Section 160 of the Act (transfer notice) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if—

- (a) after subsection (1), there were inserted the following subsection—
 

“(1A) This section also applies where the Board is required to assume responsibility for a segregated part of a non-segregated scheme.”
- (b) after subsection (2), there were inserted the following subsection—
 

“(2A) Where the trustees or managers of a segregated part 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.”;
- [<sup>F20</sup>(ba) for the words “determination made or valuation obtained under section 143(2)” in subsection (3), there were substituted the words “valuation obtained under section 143”;
- (bb) in subsection (4) the words “determination made or” were omitted;]
- (c) after subsection (4), there were inserted the following subsections—
 

“(4B) In a case where the Board is required to assume responsibility for a segregated part of a non-segregated scheme under section 127, 128, 152 or 158, a transfer notice may not be given until the Board has obtained a further actuarial valuation of the assets and protected liabilities of the scheme as a whole and of the segregated part under section 160A as at the date on which it is required to assume responsibility for the segregated part and that valuation has been approved by the Board and become binding.”; and
- (d) for subsection (6), there were substituted the following subsection—
 

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

  - (a) the Regulator, and

- (b) an insolvency practitioner acting in relation to the employer in relation to the segregated part of the multi-employer scheme in respect of which the transfer notice is issued.”.

(2) Section 161 of the Act (effect of Board assuming responsibility for a scheme) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if—

- (a) after the word “obligations” in paragraph (b) of subsection (2), there were inserted the words “ to or in respect of members of the segregated part ”; and
- (b) after the words “to or in respect of persons” in paragraph (a) of subsection (4), there were inserted the words “ who are or were members of that segregated part ”.

(3) Paragraph 1 of Schedule 6 to the Act (transfer of property, rights and liabilities) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, for the words “an occupational pension scheme”, there were substituted the words to “ a segregated part of a non-segregated multi-employer scheme ”.

#### **Textual Amendments**

**F20** Reg. 58(1)(ba)(bb) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **2(19)** (with reg. 9(1)(b)(2), 10)

#### **Further actuarial valuation of segregated parts**

**59.** Part 2 of the Act shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, after section 160 (transfer notice), there were inserted the following section—

##### **“160A Further actuarial valuations of segregated parts**

(1) This section applies in any case where the Board is required to obtain a further actuarial valuation under section 160(4B).

(2) The Board must obtain a further actuarial valuation of the assets and protected liabilities of the scheme as a whole and of the segregated part as at the date on which the Board is required to assume responsibility for that section.

(3) A valuation obtained by the Board under this section shall have effect as if it were a valuation obtained by the Board under section 143 (Board's obligation to obtain valuation of assets and protected liabilities).

(4) For the purposes of this section, subsections (3), (4), (6) to (8) and (11)(a) of section 143 shall apply in relation to a valuation of the scheme as a whole and of the segregated part obtained under this section as they apply in relation to a valuation obtained under section 143.

(5) In the application of section 143 by virtue of this section—

- (a) subsections (5) and (11)(b) of that section shall apply as if the references to “the relevant time” were to the date on which the Board is required to assume responsibility for the segregated part; and
- (b) references to “assets” do not include assets representing the value of any money purchase benefits under the scheme rules which apply to the segregated part.”.

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5. (See end of Document for details)*

### **The pension compensation provisions**

**60.**—(1) Section 162 of the Act (the pension compensation provisions) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, in subsection (1)—

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

(2) Section 163 of the Act (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, after the words “to any member” in paragraph (a) of subsection (2), there were inserted the words “ of that part ”.

(3) Section 166 of the Act (duty to pay benefits unpaid at assessment date) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if, for the words “assumes responsibility for a scheme” in subsection (1), there were substituted the words “ assumes responsibility for a segregated part of a non-segregated scheme ”.



**Status:**

Point in time view as at 01/04/2005.

**Changes to legislation:**

There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 5.