
STATUTORY INSTRUMENTS

2005 No. 441

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

PART 3

SEGREGATED SCHEMES:

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

Duty to assume responsibility for schemes

17.—(1) Section 127 of the Act (duty to assume responsibility for schemes following insolvency event) shall only have effect in relation to a multi-employer section of a segregated scheme in the circumstances described in regulation 14(1) and (2) and, for those purposes, shall be modified so that it shall be read as if—

(a) in its application to a multi-employer section of a segregated scheme to which paragraph (1) of regulation 14 applies—

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

“(1) This section applies where a qualifying insolvency event has occurred in relation to more than one of the employers in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when those employers are the only employers in relation to that section of the scheme.”;

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

(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 that section of the scheme which began before the occurrence of the current event.”; and

(b) in its application to a multi-employer section of a segregated scheme to which paragraph (2) of regulation 14 applies—

(i) for subsection (1) there were inserted the following subsection—

“(1) This section applies where a qualifying insolvency event has occurred in relation to one or more of the employers in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers”; and

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

(ii) in relation to an employer at a time when an insolvency event has also occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers,

(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 that section of 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 so that it shall be read as if, in its application to a multi-employer section of a segregated scheme to which—

(a) paragraph (1) of regulation 14 applies, 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, the trustees or managers of the scheme—

(a) make an application under subsection (1) of section 129 (“a section 129 application”) in relation to more than one employer in relation to that section of the scheme at a time when those employers are the only employers in relation to that section of the scheme, or

(b) receive a notification from the Board under subsection (5)(a) of that section (“a section 129 notification”) in relation to more than one employer in relation that section of the scheme at a time when those employers are the only employers in relation to that section of the scheme.”;

(b) paragraph (2) of regulation 14 applies, 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, the trustees or managers of the scheme—

- (a) make an application under subsection (1) of section 129 (“a section 129 application”) in relation to one or more of the employers in relation to that section of the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, or
- (b) receive a notification from the Board under subsection (5)(a) of that section (“a section 129 notification”) in relation to one or more of the employers in relation to that section of the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”.

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

(a) paragraph (1) of regulation 14 applies—

(i) 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 become aware that—

- (a) more than one employer in relation to that section of the scheme is unlikely to continue as a going concern at a time when those employers are the only employers in relation to that section of the scheme, and
- (b) the prescribed requirements are met in relation to those employers,

they must make an application to the Board for it to assume responsibility for the section under section 128.”;

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

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

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

“(5A) Where the trustees or managers of a 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 the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;

(b) paragraph (2) of regulation 14 applies—

(i) 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 become aware that—

- (a) one or more employers in relation to that section of the scheme is unlikely to continue as a going concern at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the

scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, and

(b) the prescribed requirements are met in relation to those employers,

they must make an application to the Board for it to assume responsibility for the section under section 128.”;

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

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

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

“(5A) Where the trustees or managers of a 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 the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.