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STATUTORY INSTRUMENTS

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**2005 No. 678**

**The Occupational Pension Schemes  
(Employer Debt) Regulations 2005**

*Multi-employer schemes*

**Multi-employer schemes: general**

6.—(1) In its application to a multi-employer scheme, section 75 of the 1995 Act has effect in relation to each employer as if—

- (a) the reference in section 75(2)(a) to a time which falls before any relevant event in relation to the employer which occurs while the scheme is being wound up were a reference to a time which falls before relevant events have occurred in relation to all the employers;
  - (b) the reference in section 75(2) to an amount equal to the difference being treated as a debt due from the employer were a reference to an amount equal to that employer's share of the difference being treated as a debt due from that employer;
  - (c) the references in section 75(3)(a)(i) and (b) to no relevant event of the kind there mentioned occurring in relation to the employer were references to no event of that kind occurring in relation to all the employers;
  - (d) the reference in section 75(4)(a) to a relevant event (“the current event”) occurring in relation to the employer were a reference to a relevant event or an employment-cessation event occurring only in relation to that employer;
  - (e) the reference in section 75(4) to an amount equal to the difference being treated as a debt due from the employer were—
    - (i) in a case where the difference is ascertained immediately before a relevant event occurs in relation to the employer, a reference to an amount equal to the employer's share of the difference being treated as a debt due from the employer; and
    - (ii) in a case where the difference is ascertained immediately before an employment cessation event occurs in relation to the employer, a reference to an amount equal to the sum of the cessation expenses attributable to the employer and the employer's share of the difference being treated as a debt due from the employer; and
  - (f) section 75(4)(d) and (e) were omitted.
- (2) For the purposes of paragraph (1), an employer's share of the difference is—
- (a) such proportion of the total difference as, in the opinion of the actuary after consultation with the trustees or managers, the amount of the scheme's liabilities attributable to employment with that employer bears to the total amount of the scheme's liabilities attributable to employment with the employers; or
  - (b) if the scheme provides for the total amount of that debt to be otherwise apportioned amongst the employers, the amount due from that employer under that provision.
- (3) For the purposes of paragraph (2)—

(a) the total amount of the scheme's liabilities which are attributable to employment with the employers; and

(b) the amount of the liabilities attributable to employment with any one employer,

are such amounts as are determined, calculated and verified by the actuary in accordance with the guidance given in GN 19; and a determination under this paragraph must be certified by the actuary as being in accordance with that guidance.

(4) For the purposes of these Regulations an employment-cessation event occurs in relation to an employer if he ceases to be an employer employing persons in the description of employment to which the scheme relates at a time when at least one other person continues to employ such persons.

(5) For the purposes of paragraph (1), the cessation expenses attributable to an employer are all expenses which, in the opinion of the trustees or managers of the scheme, are likely to be incurred in connection with the employment-cessation event occurring in relation to the employer.

### **Multi-employer schemes: valuations for employment cessation events**

7.—(1) This regulation applies where—

- (a) section 75 applies with the modifications referred to in regulation 6; and
- (b) the amount of the liabilities of a scheme immediately before an employment cessation event is being determined in order to determine whether a debt is to be treated as due from the employer under section 75(4) of the 1995 Act.

(2) Regulation 5 applies—

- (a) with the omission of paragraphs (1)(a) and (2) and the references to those provisions in paragraph (1)(b), (c) and (d) (by virtue of which liabilities for pensions and other benefits are to be valued on the assumption that they will be discharged by the purchase of annuities); and
- (b) with the omission of paragraph (3).

### **Multi-employer schemes: sectionalised schemes**

8.—(1) In its application to a multi-employer scheme—

- (a) which is divided into two or more sections; and
- (b) the provisions of which are such that the sections meet conditions A and B,

section 75 of the 1995 Act and the provisions of these Regulations (apart from this regulation) apply as if each section of the scheme were a separate scheme.

(2) Condition A is that contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to that employer, to the section which is appropriate in respect of the employment in question).

(3) Condition B is that a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section.

(4) In their application to a scheme—

- (a) which has been such a scheme as is mentioned in paragraph (1);
- (b) which is divided into two or more sections, one or more of which apply only to members who are not in pensionable service under the section;
- (c) the provisions of which have not been amended so as to prevent conditions A and B being met in relation to two or more sections; and

- (d) in relation to one or more sections of which those conditions have ceased to be met at any time by reason only of there being no members in pensionable service under the section and no contributions which are to be allocated to it,

section 75 of the 1995 Act and the provisions of these Regulations (apart from this paragraph) apply as if any section in relation to which those conditions have ceased to be met were a separate scheme.

(5) For the purposes of paragraphs (1) to (4), any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits are disregarded.

(6) But if paragraph (1) or (4) applies and, by virtue of any provisions of the scheme, contributions or transfers of assets to make such provision are made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section is also to be treated as a separate scheme.

(7) For the purpose of this regulation, any provisions of the scheme by virtue of which assets attributable to one section may on the winding up of the scheme or a section be used for the purposes of another section are disregarded.