
STATUTORY INSTRUMENTS

2005 No. 678

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

Multi-employer schemes

[^{F1}Employment-cessation events: exemptions

6ZB.—(1) There is a restructuring within this regulation if each of steps 1 to 6 in the following paragraphs are completed and the date on which there is a restructuring within this regulation is the date on which step 6 has been completed.

(2) Each of steps 2 to 7 can only be carried out if the previous step has been completed.

(3) Step 1 is for the exiting employer to write to the trustees or managers asking them to make a decision for the purposes of this regulation.

(4) The exiting employer decides whether and when to carry out step 1.

(5) Step 2 is for the exiting employer and receiving employer (unless the receiving employer has not yet been created) to provide any information which the trustees or managers—

- (a) may request, and
- (b) are satisfied is necessary to complete step 4.

(6) The trustees or managers must request any information, and the exiting employer and receiving employer must provide any information, for the purposes of completing step 2 without undue delay.

(7) Step 3 is for the trustees or managers to consult—

- (a) the exiting employer about the decision to be made in step 4, and
- (b) the receiving employer about the decision to be made in step 4, unless the receiving employer has not yet been created.

(8) The trustees or managers must complete step 3 without undue delay.

(9) Step 4 is for the trustees or managers to decide whether they are satisfied that the receiving employer will be at least as likely—

- (a) as the exiting employer to meet all the exiting employer's liabilities in relation to the scheme, and
- (b) to meet any liabilities in relation to the scheme which the receiving employer has immediately before step 6 is carried out.

(10) The trustees or managers must—

- (a) complete step 4 without undue delay, and
- (b) consider, when carrying out step 4, factors including, but not limited to, any material change in legal, demographic or economic circumstances, as described in regulation 5(4) (d) of the Scheme Funding Regulations, that would justify a change to the method or assumptions used on the last occasion on which the scheme's technical provisions were calculated.

- (11) Step 5 is for the trustees or managers to send—
- (a) the exiting employer, and
 - (b) the receiving employer, unless the receiving employer has not yet been created,
- their decision in step 4, and the reasons for that decision, in writing.
- (12) The trustees or managers must complete step 5 without undue delay.
- (13) Step 6 is for—
- (a) the receiving employer to take over responsibility, under a legally enforceable agreement, for all of the exiting employer's—
 - (i) assets,
 - (ii) employees, and
 - (iii) scheme members, and
 - (b) all of the exiting employer's liabilities in relation to the scheme to be—
 - (i) taken over by the receiving employer under a legally enforceable agreement so that the receiving employer is responsible for them, or
 - (ii) where it is impossible for the receiving employer to take over the exiting employer's liabilities in relation to the scheme under a legally enforceable agreement, treated for all purposes as being the responsibility of the receiving employer.
- (14) The receiving employer decides whether to carry out step 6, but the receiving employer can only carry out step 6—
- (a) where the trustees or managers decided in step 4 that they are satisfied,
 - (b) where the trustees or managers are satisfied that there has been no change which would alter that decision in step 4, and
 - (c) within the 18 weeks, or such longer period up to a total of 36 weeks as the trustees or managers may choose, after the date of the written decision in step 5.
- (15) Step 7 is for the receiving employer and exiting employer to send the trustees or managers written confirmation—
- (a) that step 6 has been completed, and
 - (b) of the date on which step 6 was completed.
- (16) The receiving employer and exiting employer must complete step 7 without undue delay.
- (17) In this regulation, liabilities in relation to the scheme means all such liabilities including, but not limited to, any—
- (a) liabilities which—
 - (i) have accrued to or in respect of scheme members, and
 - (ii) are attributable to the employer under regulation 6(4),
 - (b) amounts treated as a debt due to the trustees or managers of the scheme, including such debts due in accordance with section 75 of the 1995 Act,
 - (c) liabilities or amounts which have been apportioned to the employer in—
 - (i) a scheme apportionment arrangement,
 - (ii) an exercise of a scheme apportionment rule before 6th April 2008, or
 - (iii) a regulated apportionment arrangement,
 - (d) liabilities which were attributed to the employer as part of a previous restructuring within this regulation or regulation 6ZC,

- (e) amount for which the employer is a guarantor under a withdrawal arrangement or an approved withdrawal arrangement,
- (f) payments which are due to be made by the employer under—
 - (i) the schedule of contributions, or
 - (ii) any recovery plan, ^{F2}...
- (g) liability share of the employer.
 - [liabilities for which the employer—
- ^{F3}(h) (i) has taken over responsibility under a flexible apportionment arrangement, or
 - (ii) is treated for all purposes as being responsible under such an arrangement, and
- (i) actual and contingent liabilities.]]

Textual Amendments

- F1** Regs. 6ZA-6ZD inserted (6.4.2010) by [The Occupational Pension Schemes \(Employer Debt and Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/725\)](#), regs. 1(2), 7
- F2** Word in reg. 6ZB(17)(f) omitted (27.1.2012) by virtue of [The Occupational Pension Schemes \(Employer Debt and Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/2973\)](#), regs. 1(2), **8(a)**
- F3** Reg. 6ZB(17)(h)(i) inserted (27.1.2012) by [The Occupational Pension Schemes \(Employer Debt and Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/2973\)](#), regs. 1(2), **8(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Employer Debt) Regulations 2005, Section 6ZB.