
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Employer Debt) Regulations 2005 (S.I. 2005/678) (“the 2005 Regulations”). The 2005 Regulations make provision where debts arise under section 75 of the Pensions Act 1995 (c.26) (“the 1995 Act”) in respect of occupational pension schemes.

Under Regulation 2, the Regulations come into force on 6th April 2008, subject to transitional provisions under which certain provisions of the existing 2005 Regulations are to remain applicable in specified circumstances after that date.

Regulation 3 provides that the 2005 Regulations are to be amended in accordance with regulations 4 to 15.

Regulation 4 amends the interpretation provisions of the 2005 Regulations.

Regulation 5 substitutes new provisions for regulation 5 of the 2005 Regulations. These provide for the determination and valuation of the assets and liabilities of a scheme for the purposes of section 75 of the 1995 Act. Liabilities in respect of pensions and other benefits continue to be valued on the basis that the trustees or managers will provide for them by buying annuities. Liabilities are to be certified by the scheme's actuary in accordance with Schedule 1 to the 2005 Regulations, which is also amended.

Regulations 6 to 9 deal with multi-employer schemes.

Regulation 6 amends regulation 6 of the 2005 Regulations, which makes general provision in respect of multi-employer schemes.

Regulation 7 inserts new regulations 6A, 6B, 6C and 6D in the 2005 Regulations.

New regulation 6A provides for a period of grace of up to 12 months where a cessation event would otherwise have occurred because an employer ceases to employ a person who is an active member of a scheme.

New regulation 6B enables the trustees or managers of a scheme to enter into a scheme apportionment arrangement, under which an employer may pay an amount lower than his liability under section 75 of the 1995 Act provided that a funding test is met.

New regulation 6C sets out the conditions under which trustees or managers may enter into a withdrawal arrangement with a cessation employer. These include a funding test being met and the trustees being satisfied that guarantors are likely to be able to pay an amount calculated in accordance with Schedule 1A to the 2005 Regulations, which is also amended.

New regulation 6D provides for the notification of certain events to the Authority.

Regulation 8 replaces regulations 7, 7A and 7B of the 2005 Regulations with new regulations 7 and 7A.

New regulation 7 provides for approved withdrawal arrangements and sets out the circumstances for the Authority to give their approval.

New regulation 7A provides for regulated apportionment arrangements to be approved by the Authority with the concurrence of the Pension Protection Fund.

Regulation 9 substitutes a new regulation 8 of the 2005 Regulations, providing for separate sections of a multi-employer scheme to be treated as separate schemes.

Regulation 10 substitutes a new regulation 9 of the 2005 Regulations (dealing with frozen schemes and former employers), which reproduces the effect of the old regulation 9, but with necessary changes to deal with the new arrangements introduced by these Regulations.

Regulation 11 amends regulations 11 and 12 of the 2005 Regulations, making provision in connection with multi-employer money-purchase schemes.

Changes to legislation: *There are currently no known outstanding effects for the The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008. (See end of Document for details)*

Regulation 12 substitutes a new regulation for regulation 16 of the 2005 Regulations containing provisions for trustees to modify schemes to introduce rules providing for apportionment of debts under section 75 of the 1995 Act.

Regulations 13, 14 and 15 introduce Schedules 1, 2 and 3, which substitute amended provisions for Schedules 1, 1A and 1B to the 2005 Regulations including amended actuarial certificates.

Regulation 16 specifies regulatory functions for the Pensions Regulator for the purposes of Part 1 of the Pensions Act 2004 (c. 35).

Regulations 17, 18, 19 and 20 amend respectively the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 (S.I. 2005/441), the Pension Protection Fund (Entry Rules) Regulations 2005 (S.I. 2005/590), the Pensions Regulator (Financial Support Directions etc.) Regulations 2005 (S.I. 2005/2188) and the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377).

These Regulations reduce costs on business, charities and the voluntary sector; an assessment of this impact has been made. Copies of the Impact Assessment are available in the libraries of both Houses of Parliament. Copies may be obtained from the Better Regulation Unit of the Department for Work and Pensions, level 4, The Adelphi, 1-11 John Adam Street, London WC2N 6HT and from the Department's website at: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.

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