
STATUTORY INSTRUMENTS

2008 No. 731

The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008

Amendment of regulation 6 (multi-employer schemes: general) of the Employer Debt Regulations

6. For paragraphs (2) to (5) of regulation 6 (multi-employer schemes: general) substitute—
- “(2) For the purposes of paragraph (1), an employer's share of the difference is the liability share unless the conditions are met for it being one of the following—
- (a) the scheme apportionment arrangement share;
 - (b) the regulated apportionment arrangement share;
 - (c) the withdrawal arrangement share; or
 - (d) the approved withdrawal arrangement share.
- (3) Where—
- (a) the withdrawal arrangement share applies, the modification in regulation 6C(2) of section 75(4) of the 1995 Act shall apply when the withdrawal arrangement comes into force;
 - (b) the approved withdrawal arrangement share applies, the modification in regulation 7(6) of section 75(4) of the 1995 Act shall apply when the approved withdrawal arrangement comes into force.
- (4) For the purposes of calculating the liability proportion for the purposes of the liability share, the liabilities attributable to employment with any employer (“Employer A”) shall be determined by the trustees or managers, after consulting the actuary and Employer A, as follows—
- (a) where a scheme apportionment arrangement (or before 6th April 2008, an exercise of a scheme apportionment rule) or a regulated apportionment arrangement has required certain liabilities to be apportioned to one or more employer in a particular way, those liabilities shall be so attributed;
 - (b) subject to sub-paragraph (c), where liabilities to or in respect of any member arose as a result of pensionable service with more than one employer, the liabilities attributable to Employer A in respect of any such member shall comprise only liabilities which arose during or as a result of pensionable service with Employer A (including any liabilities attributable to a transfer received by the scheme during that period or periods of pensionable service); and
 - (c) where any of the circumstances in paragraph (5) applies in respect of certain liabilities in respect of any member, those liabilities shall be attributable in accordance with the following sub-paragraphs applied in sequence—
 - (i) either—
 - (aa) if Employer A is the last employer of any member and the liabilities in respect of that member cannot be attributed to any employer,

- all of the liabilities to or in respect of any such member shall be attributable to Employer A, or
- (bb) the liabilities in respect of any member which cannot be attributed to any employer shall be attributable in a reasonable manner to one or more employer (which may or may not include Employer A), or
 - (ii) if the trustees or managers are unable to determine whether or not Employer A is the last employer of any member and the liabilities in respect of that member cannot be attributed to any employer, the liabilities attributable to any such member shall not be attributable to any employer.
- (5) The circumstances referred to in paragraph 4(c) are—
- (a) where the trustees or managers are unable to determine to whom liabilities in respect of any member should be attributed in accordance with paragraph (4) (b), paragraph (4)(c) shall apply in relation to those liabilities which cannot be attributed to any employer under paragraph (4)(b); or
 - (b) where the trustees or managers are able to determine to whom liabilities in respect of any member should be attributed in accordance with paragraph (4)(b), but to do so they expect disproportionate costs will be incurred by the scheme, paragraph (4)(c) shall apply in relation to those liabilities which cannot be attributed to any employer under paragraph (4) (b) except at disproportionate costs.
- (6) Where an employer notifies the trustees or managers that a relevant transfer deduction shall apply to a departing employer's liabilities—
- (a) the departing employer's liability share shall be reduced by the amount of the relevant transfer deduction, provided the relevant transfer liabilities and corresponding assets are transferred out during the period commencing with the applicable time and ending on the day that is 12 months later (“transfer out period”); and
 - (b) the liability share shall be calculated after the end of the transfer out period or if all transfers are completed on a date before the end of that period, after that date.
- (7) For the purposes of paragraph (6), the relevant transfer deduction shall be determined by calculating the relevant transfer liabilities and the corresponding assets in accordance with regulation 5.
- (8) The amount of the liabilities attributable to an employer under paragraph (4), the liability proportion, and the amount of the liability share shall be calculated and verified by the actuary in accordance with any relevant BAS standards and shall be certified by him in the form set out in Schedule 1 to these Regulations.”.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008, Section 6.