
STATUTORY INSTRUMENTS

2014 No. 1711

**The Pensions Act 2011 (Transitional, Consequential
and Supplementary Provisions) Regulations 2014**

PART 7

Deficiencies in the assets

Interpretation

18. In this Part—

“approved withdrawal arrangement”, “flexible apportionment arrangement”, “multi-employer scheme”, “regulated apportionment arrangement”, “scheme apportionment arrangement” and “withdrawal arrangement” have the same meaning as in regulation 2(1) of the Employer Debt Regulations (interpretation)(1);

“the effective date” is the date by reference to which the assets of a scheme are valued and the amount of the scheme liabilities is calculated;

“employer” has the same meaning as in section 75 of the 1995 Act (deficiencies in the assets)(2) and regulations 6 (multi-employer schemes: general)(3) and 9 (frozen schemes and former employers)(4) of the Employer Debt Regulations;

“the Employer Debt Regulations” means the Occupational Pension Schemes (Employer Debt) Regulations 2005(5); and

“share of the difference”, in relation to an employer participating in a multi-employer scheme, has the meaning given by regulation 2(1) of the Employer Debt Regulations (interpretation)(6) and includes in particular an employer’s share under—

- (a) a scheme apportionment arrangement;
- (b) a withdrawal arrangement;
- (c) a flexible apportionment arrangement;
- (d) an approved withdrawal arrangement; and
- (e) a regulated apportionment arrangement.

(1) The definitions of “multi-employer scheme” and “withdrawal arrangement” were substituted, and the definitions of “approved withdrawal arrangement”, “regulated apportionment arrangement” and “scheme apportionment arrangement” inserted, by [S.I. 2008/731](#). The definition of “flexible apportionment arrangement” was inserted by [S.I. 2011/2973](#).

(2) Section 75(1) to (4C) was substituted for subsections (1) to (4) of that section as originally enacted by section 271(1) and (2) of the Pensions Act 2004 (c. 35) (“the 2004 Act”). Subsections (6A) to (6D) were inserted by section 271(1) and (5) of that Act and section 271(3), (4) and (6) of that Act amended other parts of section 75.

(3) Regulation 6 was amended by [S.I.s 2008/731](#), [2010/725](#), [2011/2973](#) and [2012/1817](#).

(4) Regulation 9 was substituted by [S.I. 2008/731](#) and amended by [S.I.s 2010/725](#) and [2011/2973](#).

(5) [S.I. 2005/678](#).

(6) The definition “share of the difference” was inserted by [S.I. 2008/731](#).

Status: Point in time view as at 24/07/2014.

Changes to legislation: There are currently no known outstanding effects for the The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014, PART 7. (See end of Document for details)

Commencement Information

I1 Reg. 18 comes into force in accordance with reg. 1(1)

Application to multi-employer schemes

19. Where, by virtue of regulation 8 (single employer sections, multi-employer sections etc)(**7**), 14 (schemes covering United Kingdom and foreign employment)(**8**) or 15 (schemes with partial government guarantee)(**9**) of the Employer Debt Regulations, section 75 of the 1995 Act applied before the appointed day to a scheme in relation to which there is more than one employer as if a section or part of the scheme were a separate scheme (or would have so applied but for these Regulations)—

- (a) this Part also so applies; and
- (b) “employer” and “member” must be read accordingly.

Commencement Information

I2 Reg. 19 comes into force in accordance with reg. 1(1)

Application of section 75 of the 1995 Act to schemes treated as money purchase schemes: periods before the appointed day

20.—(1) Where, on the appointed day, the conditions specified in paragraph (2) are met in relation to an occupational pension scheme, section 75 of the 1995 Act does not apply to the scheme in relation to any time before the appointed day.

- (2) The conditions specified in this paragraph are that, if this regulation did not apply—
 - (a) a debt would be due to the trustees or managers of the scheme from an employer in relation to the scheme in accordance with section 75 of the 1995 Act in relation to a time before the appointed day;
 - (b) at that time—
 - (i) benefits under the scheme included cash balance benefits or pensions derived from money purchase or cash balance benefits;
 - (ii) the scheme did not include any benefits other than those specified in paragraph (i), death benefits or money purchase benefits;
 - (iii) the trustees or managers of the scheme treated the scheme as a money purchase scheme; and
 - (iv) for that reason, the trustees or managers treated the scheme as if section 75 of that Act did not apply to it.

Commencement Information

I3 Reg. 20 comes into force in accordance with reg. 1(1)

(7) Regulation 8 was substituted by [S.I. 2008/731](#).

(8) Regulation 14 was amended by [S.I. 2010/725](#).

(9) Regulation 15 was amended by [S.I. 2010/725](#).

Application of section 75 of the 1995 Act to non-money purchase schemes including benefits treated as money purchase benefits: periods before the appointed day

- 21.**—(1) This regulation applies where before the appointed day—
- (a) an occupational pension scheme included benefits other than money purchase benefits;
 - (b) in accordance with section 75 of the 1995 Act, a debt became due to the trustees or managers of the scheme from an employer in relation to the scheme; and
 - (c) at the time that the debt became due, the scheme included any of the benefits specified in paragraph (2) and met the condition specified in paragraph (3).
- (2) The benefits specified in this paragraph are—
- (a) cash balance benefits;
 - (b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits);
 - (c) top-up benefits;
 - (d) pensions derived from money purchase benefits; and
 - (e) pensions derived from any of the benefits specified in sub-paragraphs (a) to (c).
- (3) The condition specified in this paragraph is that assets and liabilities in respect of benefits specified in paragraph (2) were treated as if they related to money purchase benefits for the purposes of calculating the debt referred to in paragraph (1)(b).
- (4) Where this regulation applies, section 75 of the 1995 Act applies in relation to the time that the debt referred to in paragraph (1)(b) became due (or would have become due if this regulation did not apply) as if the assets and liabilities relating to the benefits specified in paragraph (2) which were treated as money purchase benefits for the purposes of calculating the debt referred to in paragraph (1)(b) related to money purchase benefits.

Commencement Information

I4 Reg. 21 comes into force in accordance with reg. 1(1)

Non-money purchase schemes which are multi-employer schemes: arrangements before the appointed day

- 22.**—(1) This regulation applies where at any time before the appointed day an occupational pension scheme which was a multi-employer scheme—
- (a) included any of the benefits specified in regulation 21(2) (application of section 75 of the 1995 Act to non-money purchase schemes including benefits treated as money purchase benefits: periods before the appointed day); and
 - (b) met the condition specified in paragraph (2).
- (2) The condition specified in this paragraph is that an employer’s share of the difference (if any) between the value of the assets and the amount of the liabilities of the scheme for the purposes of section 75 of the 1995 Act was determined as if benefits specified in regulation 21(2) were money purchase benefits.
- (3) Where this regulation applies, section 75 of that Act applies at the time that that debt became due (or would have become due if this regulation did not apply), as if the assets and liabilities relating to the benefits specified in regulation 21(2) which were treated as money purchase benefits for the purposes of calculating an employer’s share of the difference, related to money purchase benefits.

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Commencement Information

I5 Reg. 22 comes into force in accordance with reg. 1(1)

Schemes or benefits treated as money purchase falling outside regulations 20 to 22

- 23.**—(1) Subject to paragraph (11), this regulation applies where—
- (a) at any time before the appointed day, an occupational pension scheme included benefits which were not money purchase benefits;
 - (b) if this regulation did not apply, a debt would be due to the trustees or managers of the scheme from an employer in relation to the scheme in accordance with section 75 of the 1995 Act, in relation to a time before the appointed day;
 - (c) regulations 20 to 22 do not apply in relation to the scheme; and
 - (d) one or more of the conditions specified in paragraphs (2) to (4) is met in relation to the scheme.
- (2) The condition specified in this paragraph is that the trustees or managers of the scheme—
- (a) treated the scheme as if it were a money purchase scheme; and
 - (b) did not, in accordance with section 75 of the 1995 Act, treat a difference between the value of the assets and the amount of the liabilities of the scheme as a debt due from an employer in relation to the scheme.
- (3) The condition specified in this paragraph is that the trustees or managers of the scheme—
- (a) treated benefits which were not money purchase benefits, death benefits or benefits specified in regulation 21(2) as money purchase benefits; and
 - (b) excluded assets and liabilities representing the value or amount of rights to any of those benefits from a calculation of the amount of the scheme liabilities and the value of the scheme assets for the purposes of section 75 of the 1995 Act.
- (4) The condition specified in this paragraph is that an employer's share of the difference (if any) between the value of the scheme assets and the amount of the scheme liabilities, for the purposes of section 75 of that Act, was determined as if benefits which were not money purchase benefits, death benefits or benefits specified in regulation 21(2) were money purchase benefits.
- (5) Subject to paragraph (6), the trustees or managers of a scheme to which this regulation applies, must, as soon as reasonably possible after the appointed day—
- (a) secure a valuation of the scheme assets and scheme liabilities, calculated in accordance with regulation 5 of the Employer Debt Regulations (calculation of the amount of scheme liabilities and value of scheme assets)⁽¹⁰⁾;
 - (b) where the value of the scheme assets at the effective date of that valuation is less than the amount of the scheme liabilities, treat the difference as a debt due from an employer in relation to the scheme; and
 - (c) designate a time for the purposes of a debt to be imposed in accordance with section 75 of the 1995 Act.
- (6) Paragraph (5) does not apply to a scheme which is not in winding up if either of the conditions specified in paragraphs (7) and (8) are met.

⁽¹⁰⁾ Regulation 5 was substituted by S.I. 2008/731 and amended by S.I.s 2011/2973, 2010/725 and 2012/1817.

(7) The condition specified in this paragraph is that an actuarial valuation has been prepared in accordance with section 224 of the 2004 Act (actuarial valuations and reports) in the period of 3 years ending immediately before the appointed day and either—

- (a) it appears to the trustees or managers of the scheme that the statutory funding objective was met on the effective date of that actuarial valuation; or
- (b) the statutory funding objective was not met on the effective date of the valuation but on the appointed day a recovery plan is in force in relation to the scheme.

(8) The condition specified in this paragraph is that the trustees or managers of the scheme obtain an actuarial valuation in accordance with section 224 of the 2004 Act and either—

- (a) it appears to the trustees or managers that the statutory funding objective is met on the effective date of that valuation; or
- (b) the statutory funding objective is not met at that time but the trustees or managers ensure, within 6 months beginning with the effective date of the valuation, that a recovery plan in relation to the scheme is in force.

(9) The actuarial valuation mentioned in paragraph (8) must have an effective date within the period of 12 months beginning with the appointed day, and the trustees and managers of the scheme must ensure that they receive that valuation within 15 months beginning with the effective date.

(10) Where—

- (a) the trustees or managers of the scheme comply with the requirements of paragraph (5); or
- (b) either of the conditions specified in paragraph (7) or (8) is met,
no provision of section 29 of the Act or of these Regulations requires the trustees or managers of the scheme to calculate a debt which was due or would have become due from an employer in relation to the scheme in relation to a time before the appointed day.

(11) This regulation does not apply where regulation 24 (schemes or benefits treated as money purchase falling outside regulations 20 to 22: insolvent employer) applies to the scheme.

(12) Where the trustees or managers of a scheme do not comply with the requirements of paragraph (5), section 10 of the 1995 Act (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

(13) In this regulation—

- “recovery plan” is a recovery plan prepared in accordance with section 226 of the 2004 Act; and
- “statutory funding objective” is the requirement mentioned in section 222 of that Act.

Commencement Information

I6 Reg. 23 comes into force in accordance with reg. 1(1)

Schemes or benefits treated as money purchase falling outside regulations 20 to 22: insolvent employer

24.—(1) This regulation applies where—

- (a) the circumstances specified in regulation 23(1) apply in relation to an occupational pension scheme; and
- (b) an event which is or would be (if this regulation did not apply)—
 - (i) a relevant event within section 75(6A)(a) or (b) of the 1995 Act (in relation to periods on or after 6th April 2005); or

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(ii) a relevant insolvency event within section 75(4) of that Act (in relation to periods before that date),

has occurred in relation to the employer in relation to the scheme, or in a case where the scheme is a multi-employer scheme, all the employers in relation to the scheme.

(2) Where this regulation applies, section 75 of the 1995 Act applies as if the assets and liabilities of the scheme relating to the non-money purchase benefits treated as money purchase benefits related to money purchase benefits, or (as the case may be), as if the scheme were a money purchase scheme.

Commencement Information

I7 Reg. 24 comes into force in accordance with reg. 1(1)

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