
STATUTORY INSTRUMENTS

2005 No. 441

The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 and shall come into force—

- (a) for the purposes of this regulation and regulations 2(2)(b), 3(2)(d), 5(2)(d), 9(1)(a) and (2)(a), 14(3)(b), 15(2)(e), 18(c), 24(1)(a) and (2)(a), 28(4)(b), 29(2)(d), 32(d), 38(1)(d)(i), 39(1)(a) and (2)(a), 45(4)(b), 46(2)(d), 49(d), 54(1)(d)(i), 55(1)(a) and (2)(a), 63(1) and 73(3) for the purpose only of the making of regulations on 9th March 2005; and
- (b) for the purposes of regulation 76, on whichever is the later of—
 - (i) the day which is 21 days after the date on which this instrument is laid, or
 - (ii) the day on which section 286 of the Pensions Act 2004 comes into force;
- (c) for the purposes of regulations 4, 16, 30, 47, 63(2), 73(2)(b) and 74(2) on 1st April 2005; and
- (d) for all other purposes on 6th April 2005.

(2) In these Regulations—

“the Act” means the Pensions Act 2004;

[^{F1}“the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;]

[^{F2}“employer”, in relation to a single-employer section of a segregated scheme which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it;]

“multi-employer section” means a section of a segregated scheme which has at least two employers in relation to that section;

[^{F3}“pensionable service” has the meaning given by paragraph 36(4) of Schedule 7 to the Act (accrual rate, pensionable service and pensionable earnings);]

“segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer's or that member's section; and

- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

[^{F4}(3) In the application of Part 2 of the Act, the definition of “multi-employer scheme” in section 307(4) of the Act and of these Regulations, “employer”, in relation to a multi-employer scheme that is not a segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, [^{F5}C,][^{F6}D, E or F] is satisfied where—

(i) condition A is that a debt under section 75 of the Pensions Act 1995 (deficiencies in the assets) became due from that employer and the full amount of the debt has been paid before the assessment date;

(ii) condition B is that—

(aa) such a debt became due;

(bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and

(cc) the reduced amount has been paid in full before the assessment date;

(iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;

(iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;

[^{F7}(v) condition E is that—

(aa) there is a restructuring within regulation 6ZB or 6ZC of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (employment-cessation events: exemptions);

(bb) in that restructuring, the employer was the exiting employer for the purposes of those Regulations (see the definition of “exiting employer” in regulation 2(3A) of those Regulations (interpretation)); and

(cc) regulation 6ZA(3) or (4) of those Regulations (employment-cessation events: general) does not apply in relation to that restructuring;]

[^{F8}(vi) condition F is that a flexible apportionment arrangement has taken effect in accordance with regulation 6E of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (flexible apportionment arrangements) where the employer was the leaving employer within the meaning given in paragraph (7) of that regulation;]

- (b) in any other case, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, [^{F9}C,][^{F10}D, E or F] is satisfied where—

(i) condition A is that a debt under section 75 of the Pensions Act 1995 became due from that employer and the full amount of the debt has been paid before the assessment date;

(ii) condition B is that—

(aa) such a debt became due;

- (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
- (cc) the reduced amount has been paid in full before the assessment date;
- (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
- (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.]
- [^{F11}(v) condition E is that—
 - (aa) there is a restructuring within regulation 6ZB or 6ZC of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (employment-cessation events: exemptions);
 - (bb) in that restructuring, the employer was the exiting employer for the purposes of those Regulations (see the definition of “exiting employer” in regulation 2(3A) of those Regulations (interpretation)); and
 - (cc) regulation 6ZA(3) or (4) of those Regulations (employment-cessation events: general) does not apply in relation to that restructuring.]
- [^{F12}(vi) condition F is that a flexible apportionment arrangement has taken effect in accordance with regulation 6E of the Occupational Pension Schemes (Employer Debt) Regulations 2005 where the employer was the leaving employer within the meaning given in paragraph (7) of that regulation.]

F1	Words in reg. 1(2) inserted (19.8.2005) by The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113) , regs. 1(1), 4(1)(2)(c)
F2	Words in reg. 1(2) inserted (19.8.2005) by The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113) , regs. 1(1), 10(2)(a)
F3	Words in reg. 1(2) substituted (2.10.2018) by The Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations 2018 (S.I. 2018/988) , regs. 1(2)(c), 3
F4	Reg. 1(3) substituted (19.8.2005) by The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113) , regs. 1(1), 10(2)(b)
F5	Words in reg. 1(3)(a) substituted (6.4.2010) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2010 (S.I. 2010/725) , regs. 1(2), 2(a)
F6	Words in reg. 1(3)(a) substituted (27.1.2012) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2973) , regs. 1(2), 2(a)
F7	Reg. 1(3)(a)(v) inserted (6.4.2010) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2010 (S.I. 2010/725) , regs. 1(2), 2(b)
F8	Reg. 1(3)(a)(vi) inserted (27.1.2012) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2973) , regs. 1(2), 2(b)
F9	Words in reg. 1(3)(b) substituted (6.4.2010) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2010 (S.I. 2010/725) , regs. 1(2), 2(a)
F10	Words in reg. 1(3)(b) substituted (27.1.2012) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2973) , regs. 1(2), 2(a)
F11	Reg. 1(3)(b)(v) inserted (6.4.2010) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2010 (S.I. 2010/725) , regs. 1(2), 2(c)
F12	Reg. 1(3)(b)(vi) inserted (27.1.2012) by The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2973) , regs. 1(2), 2(c)

Changes to legislation:

There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, PART 1.