
STATUTORY INSTRUMENTS

2005 No. 441

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

PART 2

SEGREGATED SCHEMES:

SINGLE EMPLOYER SECTIONS

Application and effect

2.—(1) This regulation applies to a section of a segregated scheme with one employer in relation to that section in circumstances where—

- (a) an insolvency event occurs in relation to an employer in relation to that section; or
- (b) the trustees or managers of the scheme become aware that the employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed under subsection (1)(b) of section 129 of the Act (applications and notifications for the purposes of section 128).

(2) Except as otherwise provided in this Part, in a case to which this regulation applies—

- (a) Part 2 of the Act, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and
- (b) references in Part 2 of the Act, except in Chapter 4, to—
 - (i) “scheme rules” shall be read as if they were references to “scheme rules relating to the section”;
 - (ii) “the scheme” shall be read as if they were references to “the section”;
 - (iii) “the employer” shall be read as if they were references to “the employer in relation to the section”; and
 - (iv) “trustees or managers of the scheme” shall, in relation to a section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.

(3) Paragraph (2) shall not have effect in relation to section 174 of the Act (initial levy).

Notification of insolvency events, confirmation of scheme status etc.

3.—(1) Section 120 of the Act (duty to notify insolvency events in respect of employers) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for the words “in the case of an occupational pension scheme, an insolvency event occurs in relation to the employer” in subsection (1), there were substituted the words “in the case of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”), an insolvency event occurs in relation to an employer in relation to a section

of the scheme in circumstances where that employer is the only employer in relation to that section”; and

- (b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a section of a segregated scheme receive a notice from an insolvency practitioner under subsection (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Section 122 of the Act (insolvency practitioner’s duty to issue notices confirming status of the scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for the words “employer in relation to an occupational pension scheme” in subsection (1), there were substituted the words “employer in relation to a section of a segregated scheme in circumstances where that employer is the only employer in relation to that section”;

- (b) in subsection (2)—

(i) after the words “a scheme rescue is not possible” in paragraph (a), there were inserted the words “in relation to the relevant section of the scheme”; and

(ii) after the words “a scheme rescue has occurred” in paragraph (b), there were inserted the words “in relation to the relevant section of the scheme”;

- (c) for the words “in relation to the scheme” in subsection (4), there were substituted the words “in relation to the relevant section of the scheme”;

- (d) for the words “in relation to an occupational pension scheme” in paragraphs (a) and (b) of subsection (5), there were substituted the words “in relation to a section of a segregated scheme”; and

- (e) after subsection (6), there were inserted the following subsection—

“(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by an insolvency practitioner or former insolvency practitioner under subsection (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Section 123 of the Act (approval of notices issued under section 122) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice issued by the Board under subsection (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(4) Section 124 of the Act (Board’s duty where there is a failure to comply with section 122) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for the words “in relation to an occupational pension scheme” in subsection (1), there were substituted the words “in relation to a section of a segregated scheme in circumstances where the employer is the only employer in relation to that section”; and

- (b) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by the Board under section 122 by virtue of this section, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(5) Section 125 of the Act (binding notices confirming status of scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(b) for the words “ceases to be involved with the scheme” in paragraph (b) of subsection (4), there were substituted the words “ceases to be involved with the relevant section of the scheme”.

Eligible schemes

4.—(1) Except as otherwise provided in this Part, for the purposes of Part 2 of the Act, except Chapter 4, as it applies in the case of a section of a segregated scheme to which regulation 2 applies, references to “an eligible scheme” shall be read as if they were references to a section of a segregated scheme in circumstances where that section, if it were a scheme, would not be—

(a) a money purchase scheme; or

(b) a scheme which is a prescribed scheme or a scheme of a prescribed description under section 126(1)(b) of the Act (eligible schemes).

(2) Paragraph (1) above shall not apply for the purposes of sections 174 to 181 of the Act (the levies).

Board’s duty where application or notification received under section 129

5.—(1) Section 129 of the Act (applications and notifications for the purposes of section 128) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after subsection (1), there were inserted the following subsection—

“(1A) Where the trustees or managers of a section of a segregated scheme make an application to the Board under subsection (1), they must issue a notice to that effect as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(b) after subsection (5), there were inserted the following subsection—

“(5A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Section 130 of the Act (Board’s duty where application or notification received under section 129) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after the words “a scheme rescue is not possible” in subsection (2), there were inserted the words “in relation to the relevant section of a segregated scheme”;

(b) after the words “a scheme rescue has occurred” in subsection (3), there were inserted the words “in relation to that section”;

(c) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under subsection (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;

- (d) for the words “in relation to an occupational pension scheme” in paragraphs (a) and (b) of subsection (5), there were substituted the words “in relation to a section of a segregated scheme”; and

- (e) after subsection (7), there were inserted the following subsection—

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

Protected liabilities and assessment periods

6.—(1) Section 131 of the Act (protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

“(1) For the purposes of this Chapter the protected liabilities, in relation to a section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”), are—

- (a) the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see section 162) if the Board assumed responsibility for the section in accordance with this Chapter,
- (b) a proportion of the liabilities of the scheme as a whole as calculated in the Board’s valuation of the relevant section of the scheme under section 143 which are not liabilities to, or in respect of, members,
- (c) the estimated cost of winding up the section.”.

(2) Section 132 of the Act (assessment periods) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, after the words “an assessment period” in subsections (2) and (4), there were inserted the words “in relation to a section of a segregated scheme”.

Directions and power to validate contraventions of section 135

7.—(1) Section 134 of the Act (directions) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) in subsection (2)—
 - (i) for the words “the scheme’s protected liabilities do not exceed its assets”, there were substituted the words “the protected liabilities of the section do not exceed its assets”; and
 - (ii) for the words “in relation to the scheme”, there were substituted the words “in relation to the segregated scheme in question”; and
- (b) for the words “the trustees or managers” in paragraph (a)(i) of subsection (3), there were substituted the words “any trustees or managers”.

(2) Section 136 of the Act (power to validate contraventions of section 135) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

Valuation of assets

8.—(1) Section 143 of the Act (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, for the words “the scheme” in subsection (2), there were substituted the words “the relevant section of the scheme”.

(2) Section 144 of the Act (approval of valuation) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) for the words “obtains a valuation in respect of a scheme” in subsection (1), there were substituted the words “obtains a valuation in respect of the relevant section of the scheme”; and

(b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a segregated scheme receive a copy of a valuation of the relevant section of the scheme under subsection (2), they must send a copy of that valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Section 145 of the Act (binding valuations) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) for the words “in relation to a scheme” in subsection (2), there were substituted the words “in relation to the relevant section of the scheme”; and

(b) after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (3) together with a copy of the binding valuation, they must send a copy of the notice and the binding valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

Refusal to assume responsibility for a scheme

9.—(1) Section 146 of the Act (schemes which become eligible schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) Regulations may provide that where the Board is satisfied that any section of a segregated scheme is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;

(b) for the words “a scheme” in subsection (2), there were substituted the words “a section of the scheme”;

(c) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(d) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Section 147 of the Act (new schemes created to replace existing schemes) shall be modified in its application to a new section of a segregated scheme or a section of a new segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) The Board must refuse to assume responsibility for a new section of a segregated scheme or a section of a new segregated scheme (“the new section”) under this Chapter where it is satisfied that—

- (a) the new section was established during such period as may be prescribed,
- (b) the employer in relation to the new section was, at the date of establishment of that section, also an employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new section,
- (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme or the old section has or have been made to the new section, and
- (d) the main purpose or one of the main purposes of establishing the new section and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the transfer or transfers, regulations under section 146 would have operated to prevent such payments in respect of their rights under the old scheme or the old section.”;

(b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(c) after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Section 148 of the Act (withdrawal following issue of section 122(4) notice) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after subsection (5), there were inserted the following subsection—

“(5A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice issued by the Board under this section, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

- (b) after subsection (7), there were inserted the following subsection—

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

Reconsideration and duty to assume responsibility for a scheme following reconsideration

10.—(1) Section 151 of the Act (application for reconsideration) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, in the definition of “protected benefits quotation” in subsection (8), for the words from ““protected benefits quotation” in relation to a scheme means” to the words “from the reconsideration time” there were substituted the following words—

““protected benefits quotation”, in relation to a section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the section from the trustees or managers of the scheme, which would provide in respect of each member of the section from the reconsideration time—”.

(2) Section 152 of the Act (duty to assume responsibility following reconsideration) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for subsection (2), there were substituted the following subsection—

“(2) The Board must assume responsibility in accordance with this Chapter for a section of a segregated scheme if it is satisfied that the value of the assets of the section at the reconsideration time is less than the aggregate of—

- (a) the amount quoted in the protected benefits quotation accompanying the application;
- (b) a proportion of the amount of liabilities of the scheme as a whole at that time, as calculated in the valuation of the relevant section of the scheme referred to in subsection (4) of section 151, which are not liabilities to, or in respect of, members of the scheme;
- (c) the estimated cost of winding up the section at that time.”;

- (b) after subsection (3), there were inserted the following subsection—

“(3A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice from the Board under subsection (3), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

- (c) after subsection (7), there were inserted the following subsection—

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

Closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities

11.—(1) Section 153 of the Act (closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for the words “a closed scheme” in subsection (2), there were substituted the words “a closed section of a scheme”;
- (b) for the words “a closed scheme” in subsection (5), there were substituted the words “a closed section of a scheme”; and
- (c) after subsection (6), there were inserted the following subsection—

“(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice from the Board under subsection (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Section 154 of the Act (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for the words “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” in paragraph (a) of subsection (2), there were substituted the words “(scheme rescue not possible in relation to a section of a segregated scheme but section has sufficient assets to meet the protected liabilities)”;
- (b) for the words “a scheme is wound up” in subsection (6), there were substituted the words “a section of a segregated scheme is wound up”;
- (c) for the words “winding up of a scheme” in subsection (11), there were substituted the words “winding up of a section of a segregated scheme”; and
- (d) for the words “in relation to a scheme” in subsection (12), there were substituted the words “in relation to a section of a segregated scheme”.

(3) Section 155 of the Act (treatment of closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, for subsection (1), there were substituted the following subsection—

“(1) In this section “closed scheme” means a section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under section 153 to continue as a closed section of the scheme.”.

(4) Section 157 of the Act (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, after subsection (4), there were inserted the following subsection—

“(4A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

Transfer notices and assumption of responsibility

12.—(1) Section 160 of the Act (transfer notice) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

- (a) for the words “required to assume responsibility for a scheme” in subsection (1), there were substituted the words “required to assume responsibility for a section of a segregated scheme”;

(b) after subsection (2), there were inserted the following subsection—

“(2A) Where the trustees or managers of a section of a segregated scheme receive a transfer notice from the Board under subsection (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(c) for subsection (6), there were substituted the following subsection—

“(6) The Board must give a copy of the transfer notice under subsection (2) to—

(a) the Regulator, and

(b) an insolvency practitioner acting in relation to the employer in relation to the section of the scheme in respect of which the transfer notice is issued.”.

(2) Section 161 of the Act (effect of Board assuming responsibility for a scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after the word “obligations” in paragraph (b) of subsection (2), there were inserted the words “to or in respect of members of that section”; and

(b) after the words “to or in respect of persons” in paragraph (a) of subsection (4), there were inserted the words “who are or were members of that section”.

(3) Paragraph 1 of Schedule 6 to the Act (transfer of rights and liabilities to the Board) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, for the words “an occupational pension scheme”, there were substituted the words “a section of a segregated multi-employer scheme”.

The pension compensation provisions

13.—(1) Section 162 of the Act (the pension compensation provisions) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, in subsection (1)—

(a) for the words “in relation to a scheme”, there were substituted the words “in relation to a section of a segregated scheme”;

(b) after the word “members” in paragraphs (a) and (b), there were added the words “of that section”;

(c) after the word “payable” in paragraph (c), there were added the words “to or in respect of members of that section”; and

(d) at the end of paragraph (d), there were added the words “payable to or in respect of members of that section”.

(2) Section 163 of the Act (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, after the words “to any member” in paragraph (a) of subsection (2), there were inserted the words “of that section”.

(3) Section 166 of the Act (duty to pay scheme benefits unpaid at assessment date etc) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, for the words “assumes responsibility for a scheme” in subsection (1), there were substituted the words “assumes responsibility for a section of a segregated scheme with only one employer in relation to that section of the scheme”.