

SCHEDULES

SCHEDULE 8

CONTRIBUTION NOTICES AND FINANCIAL SUPPORT DIRECTIONS UNDER 2005 ORDER

Whether reasonable for Pensions Regulator to issue contribution notice

7.—(1) Article 34 (contribution notices where avoidance of employer debt) is amended as follows.

(2) In paragraph (3) (conditions which must be met before Pensions Regulator can issue contribution notice), for sub-paragraph (d) substitute—

- “(d) the Regulator is of the opinion that it is reasonable to impose liability on the person to pay the sum specified in the notice, having regard to—
- (i) the extent to which, in all the circumstances of the case, it was reasonable for the person to act, or fail to act, in the way that the person did, and
 - (ii) such other matters as the Regulator considers relevant, including (where relevant) the matters falling within paragraph (7).”.

(3) In paragraph (7) (list of relevant matters for purposes of paragraph (3)(d))—

- (a) for the words from the beginning to “the following matters—” substitute “The matters within this paragraph are—”; and
- (b) after sub-paragraph (e) insert—
 - “(ea) the value of any benefits which directly or indirectly the person receives, or is entitled to receive, from the employer or under the scheme;
 - (eb) the likelihood of relevant creditors being paid and the extent to which they are likely to be paid;”.

(4) After that paragraph insert—

- “(7A) In paragraph (7)(eb) “relevant creditors” means—
- (a) creditors of the employer, and
 - (b) creditors of any other person who has incurred a liability or other obligation (including one that is contingent or otherwise might fall due) to make a payment, or transfer an asset, to the scheme.”.