
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005 (“the 2005 Regulations”) which contain provisions about debts arising for an employer under Article 75 of the Pensions (Northern Ireland) Order 1995 in respect of occupational pension schemes.

Regulation 10 inserts regulation 6E into the 2005 Regulations to allow an employer in a multi-employer occupational pension scheme to apportion liabilities in relation to the scheme to another employer in the scheme. Regulation 6E provides that the employer who apportions liabilities does not have to pay a debt to the scheme. The employer to whom the liabilities are apportioned becomes responsible for those liabilities. This process is called a flexible apportionment arrangement.

Regulation 6E(2) sets out the conditions which must be met in order for a flexible apportionment arrangement to take effect. This includes a condition that the trustees or managers of the scheme are satisfied that the employers remaining in the scheme are likely to be able to fund the scheme (the funding test).

Regulation 6E(1)(b) contains another condition that the employer reapportioning liabilities must have ceased to employ an active member of the scheme.

Regulation 4(b) and (c) amends the 2005 Regulations to set the time by reference to which the trustees or managers of the scheme must carry out the funding test.

Regulation 7 amends the 2005 Regulations to set out circumstances in which an employer who ceases to employ an active member of the scheme in connection with a flexible apportionment arrangement does not become liable to pay a debt to the scheme.

Regulations 4(a)(i), 6(a), 8, 11 and 13 make consequential amendments to the 2005 Regulations as a result of the flexible apportionment arrangements.

Regulations 2, 3 and 14 make consequential amendments to the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005, the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 and the Pensions Regulator (Financial Support Directions etc.) Regulations (Northern Ireland) 2005 as a result of the flexible apportionment arrangements. The amendments made by regulations 2 and 3 change the conditions in which an employer who apportions liabilities can enter the Pension Protection Fund. The amendments made by regulation 14 provide that an employer who apportions liabilities is not treated as an employer for the purposes of the scheme.

The remainder of the amendments made by these Regulations do not relate to flexible apportionment arrangements.

Regulation 9 amends the 2005 Regulations to extend the period in which an employer can employ no active members of the scheme without becoming liable to pay a debt to the scheme (the period of grace). The amendments allow the trustees or managers of the scheme to choose to extend the existing 12 month period to a maximum of 36 months. Regulation 15 makes consequential amendments to the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 so that the employer in a period of grace is still liable for making payments to fund the scheme.

Regulations 4(a)(ii) and (iii), 5, 6(b) and 12 make minor amendments to the 2005 Regulations.

Regulation 16 makes consequential revocations.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 117(1) of the Pensions (Northern Ireland) Order 1995 and Article 289(1) of the Pensions (Northern Ireland) Order 2005 does not apply by virtue of paragraph (2)(e) of each of those Articles.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA or from the website: <http://www.dsdni.gov.uk/index/ssa/ssani-publications/ssani-pensions-publications.htm>. A copy of the Assessment is also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>.