
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions about debts arising for an employer under Article 75 of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) in respect of occupational pension schemes and also make consequential amendments. In particular, the Regulations introduce a new option for employers managing Article 75 debts namely the “deferred debt arrangement” which permits employers in specified circumstances to defer payment of the Article 75 debt provided certain conditions are met.

These Regulations amend the Occupational Pension Schemes (Employer Debt) Regulations (Northern Ireland) 2005 (“the Employer Debt Regulations”) and the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 (“the Scheme Funding Regulations”).

Regulation 3 inserts definitions for “deferred debt arrangement” and “deferred employer” into regulation 2 of the Employer Debt Regulations. In addition regulation 3 provides a clarified definition of “receiving employer”.

Regulation 4 makes a consequential amendment to regulation 6ZA of the Employer Debt Regulations.

Regulation 5 amends to regulation 6A of the Employer Debt Regulations consequential to the relationship between the period of grace and the deferred debt arrangement. In addition, it extends the period for employers to provide a period of grace notice to the trustees or managers of the scheme from within 2 months of the employment-cessation event to within 3 months of the employment-cessation event.

Regulation 6 amends to regulation 6E of the Employer Debt Regulations clarifying the date on which a flexible apportionment arrangement takes place where the scheme in question is a frozen scheme.

Regulation 7 inserts regulation 6F into the Employer Debt Regulations to allow an employer in a multi-employer occupational pension scheme who experiences an employment-cessation event (a “deferred employer”) to defer payment of the Article 75 debt and to continue as an employer in relation to the scheme if certain conditions are met. The deferred employer will remain responsible for the debt and following certain events will be obliged to pay it.

Regulation 6F(1) provides that a deferred debt arrangement commences on the date that the trustees or managers of the scheme, being satisfied that certain conditions set out in regulation 6F(2) and (3) have been met, consent to the arrangement in writing.

Regulation 6F(2) sets out the conditions for a deferred debt arrangement to take place. The arrangement can be entered into by an employer who has experienced an employment-cessation event, including a situation where the employer has previously entered into a period of grace.

Regulation 6F(3) states further conditions that must be met for the arrangement to take place, namely that the scheme is not in an assessment period or being wound up, and that the trustees or managers of the scheme are satisfied that neither a Pension Protection Fund assessment period in relation to the scheme nor a material weakening of the employer’s covenant is likely to occur within 12 months of the date that the arrangement takes place.

Regulation 6F(4) confirms that a deferred employer is treated, for the period that the deferred debt arrangement is in place, as an employer of an active scheme member, and for the purposes

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of the Employer Debt Regulations and the Pensions Regulator (Financial Support Directions, etc.) Regulations (Northern Ireland) 2005 as an employer in relation to the scheme.

Regulation 6F(5) deals with the effects of the arrangement while it is in place specifying that the deferred employer is treated as if an employment-cessation event had not occurred.

Regulation 6F(6) deals with how a deferred debt arrangement comes to an end.

Regulation 6F(7) deals with how the various ways that the deferred debt arrangement concludes in regulation 6F(6) affect whether and when an employment-cessation event has occurred.

Regulation 8 makes clarifying amendments to regulation 8 of the Employer Debt Regulations.

Regulation 9 makes clarifying and consequential amendments to regulation 9 of the Employer Debt Regulations.

Regulation 10 amends Schedule 1B to the Employer Debt Regulations to make the commencement and conclusion of a deferred debt arrangement a notifiable event to the Pensions Regulator and to impose notification duties on the trustees or managers of the scheme.

Regulation 11 makes amendments to the Scheme Funding Regulations consequential on the deferred debt arrangement.

Regulation 12 makes a consequential revocation.

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 for consultation does not apply by virtue of Article 117(2)(e) of the 1995 Order and Article 289(2)(e) of the Pensions (Northern Ireland) Order 2005.

An assessment of the impact 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 Communities, Social Security Policy and Legislation Division, Level 8, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or from the website: <https://www.communities-ni.gov.uk/articles/pension-information>. 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>.