



Digital Economy Act 2017

2017 CHAPTER 30

PART 6

MISCELLANEOUS

Guarantee of pension liabilities under Telecommunications Act 1984

115 Guarantee of pension liabilities under Telecommunications Act 1984

- (1) The Secretary of State may make regulations modifying or supplementing section 68 of the Telecommunications Act 1984 (liability of Secretary of State in respect of British Telecommunications public limited company's liabilities as successor for payment of pensions) in accordance with subsection (4).
- (2) Subsection (4) applies in relation to relevant employees of British Telecommunications public limited company ("BTplc") becoming employees of another company (a "transferee") in connection with any part of the undertaking of BTplc being transferred or outsourced (whether or not to the transferee).
- (3) Employees are relevant if the liability of BTplc for the payment of pensions which vested in it by virtue of section 60 of the Telecommunications Act 1984 included, immediately before the employees ceased to be employees of BTplc, liability for the payment of pensions to or in respect of those employees.
- (4) The regulations may provide for the Secretary of State (in addition to any liability apart from the regulations) to become liable—
 - (a) on the winding up of BTplc, to discharge any outstanding liability of BTplc for the payment of pensions to or in respect of relevant employees of the transferee or a successor;
 - (b) on the winding up of the transferee or a successor, to discharge any outstanding liability of the transferee or successor for the payment of pensions to or in respect of relevant employees.
- (5) The regulations may provide for any liability that the Secretary of State is liable to discharge under the regulations not to include liability arising by virtue of a person's

Status: This is the original version (as it was originally enacted).

employment on or after a specified date, or by virtue of anything else occurring on or after a specified date.

- (6) The specified date must be not earlier than the date on which the regulations come into force.
- (7) The power to make regulations under this section is exercisable so as to—
- (a) make provision in relation to all cases or circumstances to which the power extends or in relation to specified cases or circumstances;
 - (b) in particular, make provision in relation to all employees to whom the power extends or in relation to employees of a specified description;
 - (c) make different provision for different purposes.
- (8) The regulations may—
- (a) amend section 68 of the Telecommunications Act 1984;
 - (b) re-enact any provision of that section with or without modifications.
- (9) In this section references to the winding up of a company are references to—
- (a) the passing of a resolution, in accordance with the Insolvency Act 1986, for the voluntary winding up of the company, or
 - (b) the making of an order for the winding up of the company by the court under that Act.
- (10) In this section—
- “specified” means specified in regulations under this section;
- “successor” means—
- (a) where relevant employees of a transferee become employees of another person, that person, and
 - (b) where relevant employees of a successor within paragraph (a) or this paragraph become employees of another person, that person;
- “undertaking” includes anything that may be the subject of a transfer or service provision change, whether or not the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([S.I. 2006/246](#)) apply.

116 Regulations under section 115

- (1) The power to make regulations under section 115 is exercisable by statutory instrument.
- (2) That power is exercisable by the Secretary of State only with the consent of the Treasury.
- (3) A statutory instrument containing regulations under that section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making regulations under that section the Secretary of State must consult—
 - (a) the Pensions Regulator;
 - (b) BT plc;
 - (c) the trustees of the BT Pensions Scheme;
 - (d) any transferee or successor to which the regulations apply;
 - (e) any other persons the Secretary of State considers it appropriate to consult.