
STATUTORY INSTRUMENTS

2005 No. 2184

The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005

Segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of participating employer

15.—(1) This paragraph applies to a multi-employer section of a segregated scheme (“multi-employer section”) the rules of which do not provide for the partial winding up of the section when an employer in relation to the section ceases to participate in the scheme.

(2) The fraud compensation provisions shall be modified in their application to a multi-employer section to which paragraph (1) applies so that they shall be read as if—

- (a) references to “an occupational pension scheme” were references to a multi-employer section of a segregated scheme in circumstances where that section, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with section 182(1);
- (b) references to “an eligible scheme” were references to a multi-employer section of a segregated scheme in circumstances where that section, if it were a scheme, would be an eligible scheme;
- (c) except as otherwise provided in this regulation, references to—
 - (i) “the scheme” were to “the section”;
 - (ii) “the employer” were to “an employer in relation to the section”;
 - (iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the section”;
- (d) for paragraph (a) of section 182(2) there were substituted—
 - “(a) a qualifying insolvency event has occurred in relation to an employer in relation to a multi-employer section of the segregated scheme.”;
- (e) in section 182(2)(b) for “the scheme” there were substituted “ the relevant section of the scheme ”;
- (f) in section 182(2)(c)(i) for “the insolvency event” there were substituted “ the first insolvency event in relation to the section ”;
- (g) for sub-paragraph (ii) of section 182(2)(c) there were substituted—
 - “(ii) ending immediately before the issuing of the scheme failure notice in relation to the relevant section of the scheme under section 122(2)(a) and that notice has become binding.”;
- (h) in section 182(3)(b) for “in relation to the scheme” there were substituted “ in relation to a multi-employer section of the segregated scheme ”;
- (i) for paragraph (b) of section 182(4) there were substituted—
 - “(b) in relation to a multi-employer section of the segregated scheme—

- (i) an employer is unlikely to continue as a going concern at a time when all other employers in relation to that section—
 - (aa) have had an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them; or
 - (bb) are unlikely to continue as a going concern; or
- (ii) a person, or persons, are no longer an employer in relation to that section at a time when all other employers in relation to that section—
 - (aa) have had an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them; or
 - (bb) are unlikely to continue as a going concern, and at least one insolvency event occurred on or after 6th April 2005 or at least one employer was unlikely to continue as a going concern, on or after that date.”;
- (j) in section 182(4)(c) for “the employer” there were substituted “ those employers who are unlikely to continue as a going concern ”;
- (k) in section 182(7) for “a scheme” there were substituted “ a section ”;
- (l) in section 182(8) for “the employer” there were substituted “ an employer in relation to the relevant section ”;
- (m) after paragraph (a) of section 182(8) there were inserted—
 - “(aa) it occurs—
 - (i) simultaneously in relation to more than one of the employers in relation to the section at a time when those employers are the only employers in relation to the section; or
 - (ii) in relation to an employer in relation to the section at a time when all other employers in relation to the section have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under section 129(1A), as modified by Part 3 of the Multi-Employer Regulations, or a notice given by the Board in respect of them under section 129(5) by virtue of a notice given by the Regulator under section 129(4)(a), and”;
- (n) in section 182(9)(a) and (c) for “a scheme” in each place where it occurs there were substituted “ a section ”;
- (o) in section 183(1) after “of section 182 apply” there were inserted “ to a multi-employer section of a segregated scheme ”;
- (p) in section 183(2)(a) and (b) after “scheme rescue” in both places where it occurs there were inserted “ in relation to the relevant section ”;
- (q) in section 183(3)(d) for “the employer” in both places where it occurs there were substituted “ each employer ”;
- (r) after section 183(3) there were inserted—

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

(s) in section 185(5)(d) for “the employer” in both places where it occurs there were substituted “ each employer ”;

(t) after section 185(5) there were added—

“(6) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under subsection (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005, Section 15.