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STATUTORY INSTRUMENTS

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**2005 No. 2188**

**The Pensions Regulator (Financial Support Directions etc.) Regulations 2005**

**Former employers**

**15.**—(1) In sections 38 to 56 (contribution notices, financial support directions and transactions at an undervalue) and these Regulations, “employer”, in relation to—

- (a) an occupational pension scheme which is not a multi-employer scheme; or
- (b) a single-employer section of a segregated scheme;

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it.

(2) In sections 38 to 56 and these Regulations, “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless [<sup>F1</sup>condition A, AA, AB, B, C, [<sup>F2</sup>D, E or F]] is satisfied where—

- (a) condition A is that a section 75 debt became due from that employer and the full amount of the debt has been paid;

[<sup>F3</sup>(aa) condition AA is that—

- (i) such a debt became due;
- (ii) under regulation 7 of the Occupational Pension Schemes (Employer Debt) Regulations 2005 an approved withdrawal arrangement came into force and the debt treated as due, as a result of that arrangement, is the approved withdrawal arrangement share and the cessation expenses attributable to the employer within the meaning of those Regulations; and
- (iii) that debt has been paid;

(ab) condition AB is that—

- (i) such a debt became due;
- (ii) under regulation 6C of the Occupational Pension Schemes (Employer Debt) Regulations 2005 a withdrawal arrangement came into force and the debt treated as due, as a result of that arrangement, is the withdrawal arrangement share and the cessation expenses attributable to the employer within the meaning of those Regulations; and
- (iii) that debt has been paid.]

(b) condition B is that—

- (i) such a debt became due;
- (ii) a legally enforceable agreement has been entered into in good faith the effect of which is to reduce the amount which may be recovered in respect of the debt; and
- (iii) the reduced amount has been paid in full;

- (c) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
- (d) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- [<sup>F4</sup>(e) condition E is that—
- (i) as a result of a restructuring occurring within regulation 6ZB or 6ZC of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (employment-cessation events: exemptions), no section 75 debt became due; and
  - (ii) regulation 6ZA(3) or (4) of those Regulations (employment-cessation events: general) does not apply in relation to that restructuring;]

[<sup>F5</sup>(f) condition F is that a flexible apportionment arrangement has taken effect in accordance with regulation 6E of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (flexible apportionment arrangements) where the employer was the leaving employer within the meaning given in paragraph (7) of that regulation.]

(3) In this regulation—

“ multi-employer section ” means a section of a segregated scheme which has at least two employers in relation to that section; and

“ segregated scheme ” means a multi-employer scheme which is divided into two or more sections where—

    - (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer's or that member's section; and
    - (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

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| <b>F1</b> | Words in reg. 15(2) substituted (6.4.2010) by <a href="#">Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2010 (S.I. 2010/725)</a> , regs. 1(2), <b>20(a)</b>                                      |
| <b>F2</b> | Words in reg. 15(2) substituted (27.1.2012) by <a href="#">The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2973)</a> , regs. 1(2), <b>14(a)</b>                                |
| <b>F3</b> | Reg. 15(2)(aa)-(ab) substituted by virtue of (6.4.2008) by <a href="#">Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/731)</a> , regs. 2(1) , <b>19(b)</b> (with regs. 2(3)-(8) ) |
| <b>F4</b> | Reg. 15(2)(e) inserted (6.4.2010) by <a href="#">Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2010 (S.I. 2010/725)</a> , regs. 1(2), <b>20(b)</b>                                               |
| <b>F5</b> | Reg. 15(2)(f) inserted (27.1.2012) by <a href="#">The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2973)</a> , regs. 1(2), <b>14(b)</b>                                         |

**Changes to legislation:**

There are currently no known outstanding effects for the The Pensions Regulator (Financial Support Directions etc.) Regulations 2005, Section 15.