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STATUTORY INSTRUMENTS

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**2008 No. 1903**

**The Financial Assistance Scheme  
(Miscellaneous Amendments) Regulations 2008**

**PART 2**

**Amendment of the FAS Regulations**

**Amendment of Part 3**

- 7.—(1) In regulation 9 (qualifying pension schemes)—
- (a) for paragraph (1)(c) substitute—
    - “(c) either—
      - (i) the employer in relation to that scheme satisfies the condition in regulation 11;
      - (ii) in relation to a multi-employer scheme, the condition in regulation 12 is satisfied;
      - (iii) in relation to a scheme which is not a multi-employer scheme and which began to wind up before 6th April 1997, the condition in regulation 12A(1) is satisfied;
      - (iv) in relation to a multi-employer scheme which began to wind up before 6th April 1997, the condition in regulation 12B(1) or (2) is satisfied;
      - (v) in relation to a scheme which is not a multi-employer scheme and which began to wind up on or after 6th April 1997 but before 11th June 2003, the condition in regulation 12A(2) is satisfied; or
      - (vi) in relation to a multi-employer scheme which began to wind up on or after 6th April 1997, the condition in regulation 12B(3) or (4) is satisfied;”;
    - (b) at the beginning of paragraph (1)(ca) insert “where paragraph (i) or (ii) of sub-paragraph (c) applies,”; and
    - (c) in paragraph (1)(ca), for “sub-paragraph (c)” substitute “those paragraphs”.
  - (2) In regulation 11(1), for “regulation 9(1)(c)” substitute “regulation 9(1)(c)(i)”.
  - (3) In paragraphs (1) and (2) of regulation 12, for “regulation 9(1)(c)” substitute “regulation 9(1)(c)(ii)”.
  - (4) After regulation 12 insert—

**“Employer-related condition**

**12A.—(1)** The condition to be satisfied for the purposes of regulation 9(1)(c)(iii) is that the employer discharged the debt due under section 144 of the 1993 Act or that no debt was due under that section when the scheme began to wind up.

(2) The condition to be satisfied for the purposes of regulation 9(1)(c)(v) is that the employer discharged the debt due under section 75 of the 1995 Act or that no debt was due under that section when the scheme began to wind up.

(3) The scheme manager may treat the condition in paragraph (1) or (2) as being satisfied where—

- (a) he is satisfied that an appropriate proportion of the debt was discharged or is likely to be discharged; and
- (b) in his opinion, it was reasonable that the debt due under section 144 of the 1993 Act, or section 75 of the 1995 Act as appropriate, has not been discharged.

(4) In this regulation the reference to the employer shall be interpreted in accordance with regulation 11(2).

**Employer-related condition: multi-employer schemes**

**12B.**—(1) In relation to a section of a sectionalised multi-employer scheme, the condition to be satisfied for the purposes of regulation 9(1)(c)(iv) is that—

- (a) the debt due under section 144 of the 1993 Act was discharged by all the employers in that section of the scheme; or
- (b) no debt was due under that section of that Act when the scheme began to wind up.

(2) In relation to a multi-employer scheme which is not a sectionalised multi-employer scheme, the condition to be satisfied for the purposes of regulation 9(1)(c)(iv) is that—

- (a) the debt due under section 144 of the 1993 Act was discharged by all the employers to which the scheme relates; or
- (b) no debt was due under that section of that Act when the scheme began to wind up.

(3) In relation to a section of a sectionalised multi-employer scheme, the condition to be satisfied for the purposes of regulation 9(1)(c)(vi) is that—

- (a) the debt due under section 75 of the 1995 Act was discharged by all the employers in that section of the scheme; or
- (b) no debt was due under that section of that Act when the scheme began to wind up.

(4) In relation to a multi-employer scheme which is not a sectionalised multi-employer scheme, the condition to be satisfied for the purposes of regulation 9(1)(c)(vi) is that—

- (a) the debt due under section 75 of the 1995 Act was discharged by all the employers to which the scheme relates; or
- (b) no debt was due under that section of that Act when the scheme began to wind up.

(5) The scheme manager may treat any condition in paragraphs (1) to (4) as being satisfied where—

- (a) he is satisfied that an appropriate proportion of the debt was, or is likely to be, discharged; and
- (b) in his opinion, it was reasonable that the debt due under section 144 of the 1993 Act, or section 75 of the 1995 Act as appropriate, or a proportion of that debt has not been discharged.

(6) In this regulation—

- (a) the references to the employer in paragraphs (1) and (3) shall be interpreted in accordance with regulation 12(3);
- (b) the references to the employer in paragraphs (2) and (4) shall be interpreted in accordance with regulation 12(4); and

(c) “sectionalised multi-employer scheme” has the meaning given by regulation 12(6).”.