
STATUTORY INSTRUMENTS

2005 No. 441

The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005

[^{F1}PART 6

NON-SEGREGATED SCHEMES:

**SCHEMES WITHOUT PROVISION FOR PARTIAL WIND
UP ON WITHDRAWAL OF A PARTICIPATING EMPLOYER**

[^{F1}Applications and notifications and Board's duty where application or notification received under section 129

65.—(1) Section 129 of the Act (applications and notifications for the purposes of section 128) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for subsection (1), there were substituted the following subsection—

“(1) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme—

(a) have—

(i) notified the Board in accordance with subsection (1A) that an employer in relation to the scheme is unlikely to continue as a going concern at a time when all other employers in relation to the scheme 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 scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), or

(ii) received a notice given by the Board under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a) in respect of an employer in relation to the scheme at a time when all other employers in relation to the scheme 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 scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), or

- (b) are aware that a person is no longer an employer, or that persons are no longer employers, in relation to the scheme at a time when—
 - (i) all other employers in relation to the scheme 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 scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under subsection (1A) or (5) by virtue of a notice given by the Regulator under subsection (4)(a), on or after 6th April 2005 in relation to an employer in relation to that scheme,

they must, except where an assessment period has already begun in relation to that scheme, make an application to the Board for it to assume responsibility for the scheme under section 128.”; and

- (b) after subsection (1), there were inserted the following subsections—
 - “(1A) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that an employer in relation to the scheme—
 - (a) is unlikely to continue as a going concern, and
 - (b) the prescribed requirements are met in relation to that employer,
 they must give the Board a notice to that effect.
 - (1B) The notice which must be given to the Board in accordance with subsection (1A) must be in writing and must contain the following information—
 - (a) a description of the type or purpose of the notice,
 - (b) the name of the employer in relation to the scheme in respect of which the notice is given,
 - (c) a statement by the trustees or managers of the scheme that the employer in respect of which the notice is given is unlikely to continue as a going concern and that the requirements prescribed under subsection (1A)(b) have been met in relation to that employer,
 - (d) the date on which the trustees or managers of the scheme became aware that the employer in respect of which the notice is given is unlikely to continue as a going concern, and
 - (e) the date on which the notice was sent to the Board by the trustees or managers of the scheme.
 - (1C) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme make an application to the Board under subsection (1)(a) or (b), they must as soon as practicable notify that fact to all the employers in relation to the scheme.”;
- (c) for subsection (4), there were substituted the following subsection—
 - “(4) Where, in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, the Regulator—
 - (a) becomes aware that an employer in relation to the scheme—

- (i) is unlikely to continue as a going concern, and
 - (ii) meets the requirements prescribed under subsection (1A)(b), or
 - (b) is aware that a person is no longer an employer, or that persons are no longer employers, in relation to the scheme at a time when—
 - (i) all other employers in relation to the scheme 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 scheme under subsection (1A) or a notice given by the Board in respect of them under subsection (5) by virtue of a notice given by the Regulator under subsection (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under subsection (1A) or (5) by virtue of a notice given by the Regulator under subsection (4)(a), on or after 6th April 2005 in relation to an employer in relation to that scheme,
- it must, except where an assessment period has already begun in relation to the scheme, give the Board a notice to that effect.”; and
- (d) after subsection (5), there were inserted the following subsection—
 - “(5A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under subsection (5), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.
- (2) Section 130 of the Act (Board’s duty where application or notification received under section 129) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—
- (a) for subsection (1), there were substituted the following subsection—
 - “(1) This section applies where the Board—
 - (a) receives an application under subsection (1) of section 129 and is satisfied that either paragraph (a) or (b) of that subsection is satisfied in relation to the application, or
 - (b) is notified by the Regulator under section 129(4)(b).”;
 - (b) after subsection (4), there were inserted the following subsection—
 - “(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under subsection (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
 - (c) after subsection (7), there were inserted the following subsection—
 - “(7A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under subsection (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.]

Textual Amendments

- F1** Pt. 6 substituted (1.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(2), **10(4)**

Changes to legislation:

There are currently no known outstanding effects for the The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, Section 65.