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STATUTORY INSTRUMENTS

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**2005 No. 993**

**The Occupational Pension Schemes and Pension Protection Fund (Amendment) Regulations 2005**

**Amendment of the Multi-employer Regulations**

5.—(1) The Multi-employer Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In Part 1 (preliminary), in regulation 1(3)(a) and (b) (citation, commencement and interpretation), after “in the description”, in both places where those words appear, omit “or category”.

(3) In Part 2 (segregated schemes: single employer sections)—

(a) for sub-paragraph (d) of regulation 3(2) (notification of insolvency events, confirmation of scheme status etc.), substitute—

“(d) in subsection (5)—

(i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a section of a segregated scheme”; and

(ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a section”; and”;

(b) for sub-paragraph (d) of regulation 5(2) (Board’s duty where application or notification received under section 129), substitute—

“(d) in subsection (5)—

(i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a section of a segregated scheme”; and

(ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a section”; and”;

(c) in regulation 10(2)(a) (reconsideration and duty to assume responsibility for a scheme following reconsideration), in paragraph (b) of the substituted section 152(2) of the Act (duty to assume responsibility following reconsideration), for “subsection (4) of section 151” substitute “subsection (2) or (3) of section 151”.

(4) In Part 3 (segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of participating employer)—

(a) in regulation 15 (notification of insolvency events, confirmation of scheme status etc.)—

(i) for sub-paragraph (e) of paragraph (2), substitute—

“(e) in subsection (5)—

(i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a multi-employer section of a segregated scheme”; and

- (ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a section”;; and
- (ii) in paragraph (3), for “(approval of notices issued under section 120)” substitute “(approval of notices issued under section 122)”;
- (b) in regulation 17 (duty to assume responsibility for schemes)—
  - (i) in paragraph (1)(b)(i), for “inserted” substitute “substituted”; and
  - (ii) in paragraph (2)(a), in paragraph (b) of the substituted section 128(1) of the Act (duty to assume responsibility for schemes following application or notification), for “in relation that section” substitute “in relation to that section”;
- (c) for paragraph (c) of regulation 18 (Board’s duty where application or notification received under section 129), substitute—
  - “(c) in subsection (5)—
    - (i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a multi-employer section of a segregated scheme”; and
    - (ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a section”;;
- (d) in regulation 20(b)(i)(cc) (assessment periods), for ““as assessment period”” substitute ““an assessment period””;
- (e) in regulation 22(2)(a) (restrictions on winding up, discharge of liabilities etc and power to validate contraventions of section 135), for “paragraph (d)” substitute “paragraph (c)”;
- (f) in regulation 24 (refusal to assume responsibility for a scheme)—
  - (i) in paragraph (1)(b)(ii), for ““in relation to an employer of, if there is no such insolvency practitioner, that employer”” substitute ““in relation to an employer or, if there is no such insolvency practitioner, that employer””; and
  - (ii) in paragraph (2)(d), for “in relation to the employer or, if there is no such insolvency practitioner, the employer”” substitute ““in relation to the employer or, if there is no such insolvency practitioner, the employer””;
- (g) in regulation 25 (reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities)—
  - (i) in paragraph (2)(a), in paragraph (b) of the substituted section 152(2) of the Act, for “subsection (4) of section 151” substitute “subsection (2) or (3) of section 151”;
  - (ii) in paragraph (4)(b), for ““scheme is wound up”” substitute ““a scheme is wound up””; and
  - (iii) in paragraph (6), for “sufficient” substitute “insufficient”; and
- (h) in regulation 26(2)(a) (transfer notices and assumption of responsibility for a scheme), for “paragraph (a)” substitute “paragraph (b)”.
- (5) In Part 4 (segregated schemes: non-segregated multi-employer sections of segregated schemes with requirement for partial wind up on withdrawal of participating employer)—
  - (a) for sub-paragraph (d) of regulation 29(2) (notification of insolvency events, confirmation of scheme status etc.), substitute—
    - “(d) in subsection (5)—
      - (i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a segregated part of a multi-employer section of a segregated scheme”; and

- (ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a segregated part”; and”;
  - (b) in regulation 31(2) (duty to assume responsibility for schemes), omit “from”;
  - (c) for paragraph (d) of regulation 32 (Board’s duty where application or notification received under section 129), substitute—
    - “(d) in subsection (5)—
      - (i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a segregated part of a multi-employer section of a segregated scheme”; and
      - (ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a segregated part”; and”;
  - (d) in regulation 35(a)(i) (directions), for ““the protected liabilities of the segregated part do not exceed its assets” substitute ““the protected liabilities of the segregated part do not exceed its assets””;
  - (e) in regulation 38(1)(b) (valuation of assets), for “inserted” substitute “substituted”;
  - (f) in regulation 39(2)(c) (refusal to assume responsibility for a scheme), omit “withdrawal” in the inserted subsection (4A) of section 147 of the Act (new schemes created to replace existing schemes);
  - (g) in regulation 40 (reconsideration)—
    - (i) in paragraph (1), for “for the words from ““protected benefits quotation” substitute “for the words from ““protected benefits quotation”””; and
    - (ii) in paragraph (2)(b), in paragraph (b) of the substituted section 152(2) of the Act, for “subsection (4) of section 151” substitute “subsection (2) or (3) of section 151”; and
  - (h) in regulation 41 (closed schemes and requirements to wind up schemes with sufficient assets)—
    - (i) for the heading, substitute “Closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets”; and
    - (ii) in paragraph (5), for “(applications and notifications where closed schemes have sufficient assets)” substitute “(applications and notifications where closed schemes have insufficient assets)”.
- (6) In Part 5 (non-segregated schemes: schemes with a requirement for partial wind up on the withdrawal of a participating employer)—
- (a) in regulation 46 (notification of insolvency events, confirmation of scheme status etc.)—
    - (i) for sub-paragraph (d) of paragraph (2), substitute—
      - “(d) in subsection (5)—
        - (i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a segregated part of a non-segregated scheme”; and
        - (ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a segregated part”; and”;
      - (ii) in paragraph (4)(b), for “subsection 122” in the inserted section 124(4A) of the Act (Board’s duty where there is a failure to comply with section 122) substitute “section 122”; and

- (iii) in subsection (5), insert “it shall be read as if” after “regulation 45 applies so that”;
  - (b) in regulation 48(2) (duty to assume responsibility for schemes), omit “from”;
  - (c) for paragraph (d) of regulation 49 (Board’s duty where application or notification received under section 129), substitute—
    - “(d) in subsection (5)—
      - (i) in paragraph (a), for the words “in relation to an occupational pension scheme” there were substituted the words “in relation to a segregated part of a non-segregated scheme”; and
      - (ii) in paragraph (b), for the words “in relation to such a scheme” there were substituted the words “in relation to such a segregated part”; and”;
  - (d) in regulation 56(2)(b) (reconsideration), in paragraph (b) of the substituted section 152(2) of the Act, for “subsection (4) of section 151” substitute “subsection (2) or (3) of section 151”; and
  - (e) in regulation 57 (closed schemes and requirement to wind up schemes with sufficient assets), for the heading substitute “Closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets”.
- (7) In Part 6 (non-segregated schemes: schemes without provision for partial wind up on withdrawal of a participating employer)—
- (a) in regulation 61(1)(a) (application and effect), after “in relation to the scheme;” add “or”;
  - (b) in regulation 62 (notification of insolvency events, confirmation of scheme status, etc.)—
    - (i) in paragraph (2)(f), in the inserted subsection 122(6A) of the Act, after “receive a notice issued” insert “by”;
    - (ii) for sub-paragraph (c) of paragraph (3) substitute—
      - “(c) for the words “in relation to the employer, the employer” in paragraph (e) of subsection (4), there were substituted the words “in relation to an employer, that employer”; and”;
    - (iii) in paragraph (4)(d), in the inserted section 124(4A) of the Act, after “a copy of”, where those words first appear, insert “a”;
  - (c) in regulation 65(1) (applications and notifications), for “(applications and notifications for the purposes of section 126)” substitute “(applications and notifications for the purposes of section 128)”;
  - (d) in regulation 66 (assessment periods)—
    - (i) in paragraph (a)(i)(cc), omit “in subsection (2)”;
    - (ii) in paragraph (b)(i)(cc), omit “in subsection (2)”;
    - (iii) in paragraph (b)(ii), omit “begins” in both places where that word appears; and
  - (e) in regulation 70(2) (transfer notices and the pension compensation provisions), for “(transfer of property, rights and liabilities)” substitute “(transfer of property, rights and liabilities to the Board)”.
- (8) In Part 7 (non-segregated scheme with an option to segregate on the withdrawal of a participating employer), in regulation 71 (application and effect)—
- (a) in paragraph (3)(a)(ii), in the inserted section 120(3A) of the Act (duty to notify insolvency events in respect of employers), after “trustees or managers” insert “of”; and

(b) in paragraph (3)(b), in the inserted section 122(2A) of the Act (insolvency practitioner’s duty to issue notices confirming status of scheme), for “in relation the scheme” substitute “in relation to the scheme”.

(9) In Part 8 (segregated schemes: multi-employer sections of segregated schemes with an option to segregate on the withdrawal of a participating employer), in regulation 72(3)(c)(ii) (application and effect), for “substituted” substitute “inserted”.

(10) In Part 9 (multi-employer schemes: the pension protection levies)—

(a) in regulation 73(3) (modification of sections 175 to 181 of the Act: segregated schemes), for “subsection (1)(b)” substitute “subsection (1)(a)”;

(b) in regulation 74 (modification of sections 175 to 181 of the Act: non-segregated schemes)

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(i) in paragraph (3), in paragraph (a) of the substituted section 175(2) of the Act (pension protection levies), for “a risk based pension protection levy is assessed by reference to” in each place where those words appear, substitute “a risk-based pension protection levy is a levy assessed by reference to”;

(ii) in paragraph (3)(b), in paragraph (a)(ii) of the substituted section 175(2) of the Act, for “consider” substitute “considers”; and

(iii) in paragraph (3)(c), omit “for paragraph (a) of subsection (2), there were substituted the following paragraph,” where those words first appear; and

(c) in regulation 75(2) (modification of sections 175 to 181 of the Act: multi-employer sections of segregated schemes), in paragraph (a) of the substituted section 175(2) of the Act, for “a risk based pension protection levy is assessed by reference to” in each place where those words appear, substitute “a risk-based pension protection levy is a levy assessed by reference to”.