
STATUTORY INSTRUMENTS

2008 No. 731

The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008

Commencement and transitional provisions

2.—(1) Subject to the transitional provisions in paragraphs (3) to (8), these Regulations shall come into force on 6th April 2008 (“the commencement date”).

(2) Notwithstanding those provisions, regulation 5(12) of the Employer Debt Regulations, as substituted by these Regulations, shall apply when the amount of a debt arising under section 75(2) or (4) of the 1995 Act falls to be calculated after the commencement date.

(3) Paragraph (4) shall apply where before the commencement date—

- (a) a person ceased to employ at least one active member in relation to a scheme at a time when at least one other person continued to employ persons in the description of employment to which the scheme related, and
- (b) that event was not an employment-cessation event, under regulation 6(4) of the old Regulations, in relation to the scheme^[F1], and
- (c) the scheme had not ceased to have active members.]

(4) The definition of “employment-cessation event”^[F2] referred to in paragraph (4A)] shall continue to apply after the commencement date, in the case of a person to whom paragraph (3) applies, until—

- (a) immediately after such time as that person has ceased to employ persons in the description of employment to which the scheme relates at a time when at least one other person continues to employ such persons, or
- (b) such time as that person employs an active member.

^[F3](4A) The definition referred to in this paragraph is the definition of “employment-cessation event” as it appeared in regulation 6(4) of the old Regulations but with “who is not a defined contribution employer” inserted after “when at least one other person”.]

(5) The old Regulations shall continue to apply on and after the commencement date in relation to a debt arising under section 75(2) or (4) of the 1995 Act where—

- (a) the applicable time, in relation to the debt arising under section 75(2) or (4) of the 1995 Act, is before the commencement date, or
- (b) the employment-cessation event occurred before the commencement date.

(6) The old Regulations shall continue to apply on and after the commencement date where a scheme commenced winding-up before the commencement date.

(7) Paragraph (8) shall apply where—

- (a) an agreement is entered into before, on or within 12 months after the commencement date on the basis that a scheme's apportionment rule will apply after the commencement date in relation to a specific employment-cessation event, or in relation to a debt arising as a result of the commencement of winding-up of the scheme;

- (b) the scheme's apportionment rule was in force before the date on which these Regulations were laid before Parliament; and
- (c) the transaction to which the agreement related was considered before that date by the managing body of at least one of the parties to the agreement or of a connected or associated person of such a party.

(8) The old Regulations shall continue to apply on and after the commencement date in relation to that employment-cessation event, or in relation to the winding-up of the scheme, where the employment-cessation event, or the commencement of winding-up, takes place during the period of 12 months beginning on the commencement date .

(9) In paragraph (7)—

- (a) a “scheme's apportionment rule” means a scheme rule for the purposes of regulation 6(2)(b) of the old Regulations, which makes provision for the difference between the value of a scheme's assets and the amount of its liabilities to be apportioned among the employers in different proportions from those which would otherwise arise;
- (b) “managing body” means—
 - (i) in relation to a company or other corporate body, its board of directors or governing body;
 - (ii) in relation to a partnership, its partners;
 - (iii) in relation to an individual, that individual;
- (c) “connected or associated person” has the meaning given by section 123 of the 1995 Act (“connected” and “associated” persons).

(10) In this regulation, references to “the old Regulations” are to the Employer Debt Regulations as they existed before the commencement date.

Textual Amendments

- F1** Reg. 2(3)(c) and word inserted (6.4.2010) by [Occupational Pension Schemes \(Employer Debt and Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/725\)](#), regs. 1(2), **22(2)**
- F2** Words in reg. 2(4) substituted (6.4.2010) by [Occupational Pension Schemes \(Employer Debt and Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/725\)](#), regs. 1(2), **22(3)**
- F3** Reg. 2(4A) inserted (6.4.2010) by [Occupational Pension Schemes \(Employer Debt and Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/725\)](#), regs. 1(2), **22(4)**

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008, Section 2.