
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

- the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 ([S.I. 2005/441](#)) (“the Multi-employer Regulations”),
- the Pension Protection Fund (Entry Rules) Regulations 2005 ([S.I. 2005/590](#)) (“the Entry Rules Regulations”),
- the Occupational Pension Schemes (Employer Debt) Regulations 2005 ([S.I. 2005/678](#)) (“the 2005 Regulations”),
- the Pensions Regulator (Financial Support Directions etc.) Regulations 2005 ([S.I. 2005/2188](#)) (“the FSD Regulations”),
- the Occupational Pension Schemes (Scheme Funding) Regulations 2005 ([S.I. 2005/3377](#)) (“the Scheme Funding Regulations”), and
- the Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008 ([S.I. 2008/731](#)) (“the 2008 Regulations”).

These Regulations contain provisions about debts arising under section 75 of the Pensions Act 1995 ([c.26](#)) in respect of occupational pension schemes.

Regulation 7 amends the 2005 Regulations to insert new regulations 6ZA to 6ZD. These new regulations introduce two new circumstances in which an employer in a multi-employer occupational pension scheme can stop participating in the scheme without being required to pay a debt to the scheme (“the 2 changes”). Both apply where two employers who are associated with each other are restructuring the way they are organised.

New regulation 6ZA sets out the circumstances in which an employer who stops participating in a multi-employer occupational pension scheme has to pay a debt to the scheme.

New regulation 6ZB sets out the first of the 2 changes. It prescribes the process to be followed in order for an employer to stop participating in their pension scheme without paying a debt. New regulation 6ZB(13) requires that the employer transfers to an employer who is remaining in the scheme all their responsibilities and obligations in respect of the scheme and all their assets. New regulation 6ZB(9) requires the trustees or managers of the scheme to be satisfied that the employer which is taking over those responsibilities and obligations will be at least as likely to meet them as the employer leaving the scheme.

New regulation 6ZC sets out the second of the 2 changes. It also prescribes a process to be followed. New regulation 6ZC(9) requires the same transfer to take place as new regulation 6ZB(13). New regulation 6ZC(5) provides that only a small transfer can be made.

New regulation 6ZD allows the trustees or managers of the scheme to recover from the employers any costs they incur under new regulations 6ZB or 6ZC.

Regulations 2 and 3 make consequential amendments to the Multi-employer Regulations and Entry Rules Regulations. These amendments change the conditions in which an employer who stops participating in the scheme in accordance with the 2 changes can enter the Pension Protection Fund.

Regulations 4, 6(3) and 10 make amendments to the 2005 Regulations which are consequential on the 2 changes.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 20 also makes a consequential amendment to the FSD Regulations. It provides that an employer who stops participating in the pension scheme under one of the 2 changes is not treated as an employer for the purposes of the scheme.

Regulations 5, 6(2), 8, 9 and 11 to 19 make changes to the 2005 Regulations which are not connected to the 2 changes and regulations 21 and 22 make changes to other Regulations which are not connected to the 2 changes.

Regulation 5 makes amendments to the way scheme liabilities and assets are calculated for the purposes of employer debt.

Regulation 8 makes amendments which prevent an employer entering a scheme apportionment arrangement where the scheme is attempting to enter the Pension Protection Fund or is likely to make such an attempt in the next year.

Regulation 9 makes amendments which provide that guarantors can be jointly liable for a debt under a withdrawal arrangement.

Regulation 11 removes a reference to guidance which is no longer published.

Regulation 14 makes amendments which allow schemes to modify their rules so that an apportionment arrangement can be entered into.

Regulations 16, 18 and 19 amend the certificates which an actuary may have to complete for employer debt purposes.

Regulations 6(2), 12, 13, 15 and 17 make minor amendments to the 2005 Regulations.

Regulation 21 makes a minor amendment to the Scheme Funding Regulations.

Regulation 22 amends the transitional provisions of the 2008 Regulations in respect of schemes that have ceased to employ active members.

An assessment of the impact these Regulations have on business, charities and the voluntary sector has been made. Copies of that Impact Assessment are available from the libraries of both Houses of Parliament, the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA and the Department's website at: <http://www.dwp.gov.uk/publications/impact-assessments>.