
STATUTORY INSTRUMENTS

2012 No. 3083

The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012

Amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005

2.—(1) The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005⁽¹⁾ are amended as follows.

(2) In regulation 6(1) (protected liabilities and assessment periods), in paragraph (b) of the substituted section 131(1) of the Act (protected liabilities), for the words “as calculated in the Board’s valuation of the relevant section of the scheme under section 143” substitute “as determined by the Board or as calculated in the Board’s valuation of the relevant section of the scheme under section 143”.

(3) In regulation 8 (valuation of assets)—

(a) for paragraph (1), substitute—

“(1) Section 143 of the Act (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) for the words “the scheme” in subsection (2)(b), there were substituted the words “the relevant section of the scheme”; and

(b) after subsection (2A), there were inserted the following subsection—

“(2B) Where the trustees or managers of a segregated scheme receive a copy of a notice under subsection (2A), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(b) after paragraph (1), insert—

“(1A) Section 143A of the Act (determinations under section 143) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after subsection (1), there were inserted the following subsection—

“(1A) Where the trustees or managers of a segregated scheme receive a copy of a determination under subsection (1), they must send a copy of that determination as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(b) for the words “a scheme” in subsection (3), there were substituted the words “the relevant section of a scheme”.

(4) 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

(1) [S.I. 2005/441](#); relevant amending instruments are [S.I. 2005/993](#) and [2113](#).

assume responsibility following reconsideration), for the words “as calculated in the valuation of the relevant section of the scheme” substitute “as determined by the Board or calculated in the valuation of the relevant section of the scheme”.

(5) In regulation 11 (closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities) after paragraph (4), insert—

“(5) Section 158 of the Act (duty to assume responsibility for closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if, after subsection (3A), there were inserted the following subsection—

“(3B) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under subsection (3A), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(6) In regulation 23 (valuation of assets)—

(a) for paragraph (1), substitute—

“(1) Section 143 of the Act (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) for the words “the scheme” in subsection (2)(b), there were substituted the words “the relevant section of the scheme”; and

(b) after subsection (2A), there were inserted the following subsection—

“(2B) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice under subsection (2A), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(b) after paragraph (1), insert—

“(1A) Section 143A of the Act (determinations under section 143) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) after subsection (1), there were inserted the following subsection—

“(1A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination under subsection (1), they must send a copy of that determination as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(b) for the words “a scheme” in subsection (3), there were substituted the words “the relevant section of a scheme”.

(7) In regulation 25 (reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities), after paragraph (6), insert—

“(7) Section 158 of the Act (duty to assume responsibility for closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if, after subsection (3A), there were inserted the following subsection—

“(3B) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under subsection (3A), they must send a copy of that notice as soon as practicable to all the employers in relation

to that section of the scheme and to the trustees or managers of each section of the scheme (if different).””.

(8) In regulation 28(4)(b)(iv) (application and effect), after “administration of the section” insert—

“; and

(c) Part 2 of the Act shall be read as if section 143A were omitted”.

(9) After regulation 37 (Board to act as creditor of the employer), insert—

“Ill health pensions

37A.—(1) Section 141 of the Act (effect of a review) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if—

(a) in subsection (4) the words “a determination under section 143(2)(a) or” were omitted; and

(b) in subsection (5)(a) the words “makes a determination under section 143(2)(a) or” were omitted.

(2) Section 142(1) of the Act (sections 140 and 141: interpretation) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if, for the words “143(2)(b)” in the definition of “scheme valuation” there were substituted the word “143”.”.

(10) In regulation 38 (valuation of assets)—

(a) for paragraph (1)(b), substitute—

“(b) for subsection (2), there were substituted the following subsection—

“(2) For the purposes of determining whether the condition in subsection (2) (a) of the section in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the section as a whole and of the segregated part as at the relevant time.”;”;

(b) after paragraph (1)(b), insert—

“(ba) subsection (2A) were omitted;

(bb) for the words “a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b)” in subsection (4), there were substituted the words “this section”;

(bc) subsection (5C) were omitted;

(bd) in subsection (6), the words “for the purposes of an actuarial valuation obtained under subsection (2)(b)” were omitted;”;

(c) in paragraph (1)(c), omit “and”;

(d) after paragraph (1)(c), insert—

“(ca) in subsection (9)—

(i) for the words “requires a determination to be made, or an”, there were substituted the words “requires the”, and

(ii) the words “the determination or” were omitted;

(cb) for the words “requires a determination to be made, or an” in subsection (10), there were substituted the words “requires the”;”;

(e) in paragraph (1)(d), after paragraph (i) insert—

- “(ia) the words “makes a determination under subsection (2)(a) or” in paragraph (b) (ii) were omitted; and”;
- (f) for paragraph (2)(a) substitute—
- “(a) for the words “obtains a valuation in respect of a scheme under section 143(2) (b)” in subsection (1), there were substituted the words “obtains a valuation or a further valuation in respect of the section as a whole and of the segregated part under section 143”; and”;
- (g) for paragraph (3)(a), substitute—
- “(a) for the words “a valuation obtained under section 143(2)(b) is not binding” in subsection (1), there were substituted the words “a valuation or a further valuation obtained under section 143 of the section as a whole and of the segregated part is not binding”;
- (11) In regulation 40 (reconsideration) for paragraph (1), substitute—
- “(1) Section 151 of the Act (application for reconsideration) shall be modified in its application to a segregated part to which regulation 28 applies, so that it shall be read as if—
- (a) for the words “the determination made by the Board or valuation obtained by the Board in respect of the scheme under section 143(2)” in subsections (2)(b) and (3) (b) there were substituted the words “the valuation obtained by the Board under section 143 in respect of the segregated part”;
- (b) the words “determination or” in paragraphs (a)(ii) and (b)(ii) of subsection (6) were omitted;
- (c) in the definition of “protected benefits quotation” in subsection (8), from the words “in relation to a scheme” to “the reconsideration time” there were substituted—
- “in relation to a segregated part of a multi-employer section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the segregated part from the trustees or managers of the scheme, which would provide in respect of each member of the segregated part from the reconsideration time”; and
- (d) for the words “under section 143(2)(b)” in subsection (10), there were substituted the words “under that section”.
- (12) In regulation 41 (closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets)—
- (a) after paragraph (2)(a), insert—
- “(aa) the words “determination made by the Board or” in subsection (5)(b), were omitted;”;
- (b) after paragraph (5), insert—
- “(6) Section 158 of the Act (duty to assume responsibility for closed schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if—
- (a) for subsection (3), there were substituted the following subsection—
- “(3) For the purposes of determining whether the condition in subsection (1) is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation (within the meaning of section 143) of the segregated part as at the relevant time.”;

- (b) subsection (3A) were omitted;
- (c) in subsection (5)—
 - (i) for the words “a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b)” there were substituted the words “a valuation obtained under subsection (3);
 - (ii) for the words “a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b)” there were substituted the words “a valuation obtained under section 143”; and
 - (iii) paragraph (aa) were omitted; and
- (d) in subsection (6)—
 - (i) “, 143A” were omitted; and
 - (ii) paragraph (aa) were omitted.”.

(13) In regulation 42 (transfer notices and assumption of responsibility for a scheme), after paragraph (1)(b) insert—

- “(ba) for the words “determination made or valuation obtained under section 143(2)” in subsection (3), there were substituted the words “valuation obtained under section 143”;
- (bb) in subsection (4) the words “determination made or” were omitted;”.

(14) In regulation 45(4)(b)(iv) (application and effect), after “administration of the segregated part” insert—

“; and

- (c) Part 2 of the Act shall be read as if section 143A were omitted”.

(15) After regulation 53 (Board to act as creditor of the employer), insert—

“Ill health pensions

53A.—(1) Section 141 of the Act (effect of a review) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

- (a) in subsection (4) the words “a determination under section 143(2)(a) or” were omitted; and
- (b) in subsection (5)(a) the words “makes a determination under section 143(2)(a) or” were omitted.

(2) Section 142(1) of the Act (sections 140 and 141: interpretation) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if for the words “143(2)(b)” in the definition of “scheme valuation” there were substituted the word “143”.

(16) In regulation 54 (valuation of assets)—

- (a) for paragraph (1)(b), substitute—

“(b) for subsection (2) there were substituted the following subsection—

“(2) For the purposes of determining whether the condition in subsection (2) (a) of the section in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the section as a whole and of the segregated part as at the relevant time.”;

- (b) after paragraph (1)(b), insert—

“(ba) subsection (2A) were omitted;

- (bb) for the words “a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b)” in subsection (4), there were substituted the words “this section”;
- (bc) subsection (5C) were omitted;
- (bd) in subsection (6), the words “for the purposes of an actuarial valuation obtained under subsection (2)(b)” were omitted;”;
- (c) in paragraph (1)(c), omit “and”;
- (d) after paragraph (1)(c), insert—
 - “(ca) in subsection (9)—
 - (i) for the words “requires a determination to be made, or an”, there were substituted the words “requires the”;
 - (ii) the words “the determination or” were omitted;
 - (cb) for the words “requires a determination to be made, or an” in subsection (10), there were substituted the words “requires the”;
- (e) in paragraph (1)(d), after paragraph (i) insert—
 - “(ia) the words “makes a determination under subsection (2)(a) or” in paragraph (b) (ii) were omitted; and”;
- (f) for paragraph (2)(a) substitute—
 - “(a) for the words “obtains a valuation in respect of a scheme under section 143(2)(b)” in subsection (1), there were substituted the words “obtains a valuation or a further valuation in respect of the section as a whole and of the segregated part under section 143”; and”;
- (g) for paragraph (3)(a), substitute—
 - “(a) for the words “a valuation obtained under section 143(2)(b) is not binding” in subsection (1), there were substituted the words “a valuation or a further valuation obtained under section 143 of the section as a whole and of the segregated part is not binding”;
- (17) In regulation 56 (reconsideration), for paragraph (1) substitute—
 - “(1) Section 151 of the Act (application for reconsideration) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—
 - (a) for the words “the determination made by the Board or the valuation obtained by the Board in respect of the scheme under section 143(2)” in subsections (2)(b) and (3)(b), there were substituted the words “the valuation obtained by the Board under section 143 in respect of the segregated part”;
 - (b) the words “determination or” in paragraphs (a)(ii) and (b)(ii) of subsection (6) were omitted;
 - (c) in the definition of “protected benefits quotation” in subsection (8), from the words “in relation to a scheme” to “the reconsideration time” there were substituted—
 - “in relation to a segregated part of a non-segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the segregated part from the trustees or managers of the scheme, which would provide in respect of each member of the segregated part from the reconsideration time”; and

(d) for the words “under section 143(2)(b)” in subsection (10), there were substituted “under that section”.

(18) In regulation 57 (closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets)—

(a) after paragraph (2)(a), insert—

“(aa) the words “determination made by the Board or” in subsection (5)(b), were omitted;” and

(b) after paragraph (5), insert—

“(6) Section 158 of the Act (duty to assume responsibility for closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if—

(a) for subsection (3), there were inserted the following subsection—

“(3) For the purposes of determining whether the condition in subsection (1) is satisfied the Board must, as soon as reasonably practicable, obtain an actuarial valuation (within the meaning of section 143) of the segregated part as at the relevant time.”;

(b) subsection (3A) were omitted;

(c) in subsection (5)—

(i) for the words “a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b)” there were substituted the words “a valuation obtained under subsection (3)”;

(ii) for the words “a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b)” there were substituted the words “a valuation obtained under section 143”; and

(iii) paragraph (aa) were omitted; and

(d) in subsection (6)—

(i) “, 143A” were omitted; and

(ii) paragraph (aa) were omitted.”.

(19) In regulation 58 (transfer notices and assumption of responsibility for a scheme), after paragraph (1)(b) insert—

“(ba) for the words “determination made or valuation obtained under section 143(2)” in subsection (3), there were substituted the words “valuation obtained under section 143”;

(bb) in subsection (4) the words “determination made or” were omitted;”.

(20) In regulation 68 (valuation of assets) after “Sections” insert “143A(4)(c) (Determinations under section 143),”.