
STATUTORY INSTRUMENTS

2017 No. 1205

The Employment Rights Act 1996 and Pension Schemes Act 1993 (Amendment) Regulations 2017

Amendments to the Pension Schemes Act 1993

3.—(1) The Pension Schemes Act 1993⁽¹⁾ is amended as follows—

(2) In section 123(interpretation of chapter 2)⁽²⁾—

(a) in subsection (1)—

(i) in paragraph (b) after “Insolvency Act 1986,” omit “or”; and

(ii) at the end of paragraph (c) insert—

“or

(d) where subsection (2A) is satisfied.”;

(b) after subsection (2) insert—

“(2A) This subsection is satisfied if—

(a) a request has been made for the first opening of collective proceedings—

(i) based on the insolvency of the employer, as provided for under the laws, regulations and administrative provisions of a member State; and

(ii) involving the partial or total divestment of the employer’s assets and the appointment of a liquidator or a person performing a similar task; and

(b) the competent authority has—

(i) decided to open the proceedings; or

(ii) established that the employer’s undertaking or business has been definitively closed down and the available assets of the employer are insufficient to warrant the opening of the proceedings.

(2B) For the purposes of subsection (2A)—

(a) “liquidator or person performing a similar task” includes the official receiver or an administrator, trustee in bankruptcy, judicial factor, supervisor of a voluntary arrangement, or person performing a similar task,

(b) “competent authority” includes—

(i) a court,

(ii) a meeting of creditors,

(iii) a creditors’ committee,

(iv) the creditors by a decision procedure, and

⁽¹⁾ 1993 c.48.

⁽²⁾ Section 123 was amended by 2016/481, Pensions Act 2004 (c.35) and Pensions Act 2014 (c.19); there are other amending instruments but none is relevant.

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- (v) an authority of a member State empowered to open insolvency proceedings, to confirm the opening of such proceedings or to take decisions in the course of such proceedings.
- (2C) An application under section 124 may only be made in respect of a worker who worked or habitually worked in Great Britain in that employment to which the application relates.”.