

# Multi-employer Pension Schemes Bill

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## CONTENTS

- 1 Calculation of scheme liabilities for multi-employer pension schemes
- 2 Responsibility for multi-employer scheme liabilities
- 3 Transfer of economic entity to a limited liability company
- 4 Responsibility for liabilities that cannot be attributed to an employer
- 5 Interpretation
- 6 Extent, commencement and short title

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Make provision about multi-employer pension schemes, including provision for the protection of unincorporated businesses, such as plumbing businesses, from certain multi-employer pension scheme liabilities; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Calculation of scheme liabilities for multi-employer pension schemes**

- (1) The Employer Debt Regulations are amended as follows.
- (2) In paragraph (19) of regulation 5 (Calculation of the amount of scheme liabilities and value of scheme assets), after “subject to”, insert “regulation 5A (Calculation of scheme liabilities: multi-employer pension schemes),” 5
- (3) After regulation 5 (Calculation of the amount of scheme liabilities and value of scheme assets), insert the following—

**“5A Calculation of scheme liabilities: multi-employer pension schemes**

  - (1) Regulation 5 does not apply to multi-employer schemes.
  - (2) The value of scheme liabilities for multi-employer schemes for the purposes of section 75 of the 1995 Act shall be determined by reference to the scheme’s technical provisions (within the meaning given in section 222(2) of the 2004 Act). 10
  - (3) The trustees must arrange for the scheme liabilities to be calculated in accordance with paragraphs (4) and (5). 15
  - (4) Where the trustees consider that the methodology for the last actuarial valuation of the scheme remains appropriate, they must instruct the actuary to provide a best estimate of the scheme liabilities.
  - (5) Where the trustees consider that the methodology for the last actuarial valuation is no longer appropriate, they must obtain an actuarial valuation in accordance with Part 3 of the 2004 Act. 20

- (6) The trustees must make a determination on whether the scheme liabilities will be calculated by reference to paragraph (4) or (5) within 12 months of an employer cessation event occurring.
- (7) Where the trustees have failed to make a determination in accordance with paragraph (6), the Regulator must direct the trustees as to whether the scheme liabilities are to be calculated by reference to paragraph (4) or (5). 5
- (8) In this regulation, “Regulator” has the same meaning as in the 2004 Act.”
- (4) In paragraph (7) of regulation 6 (Multi-employer pension schemes: general) leave out “calculating the relevant transfer liabilities and the corresponding assets in accordance with regulation 5” and insert “reference to regulation 5A.” 10
- 2 Responsibility for multi-employer scheme liabilities**
- (1) Regulation 6 (Multi-employer schemes: general) of the Employer Debt Regulations is amended as follows. 15
- (2) Leave out sub-paragraph (4(c)) and paragraph (5) and insert –
- (5) An employer (“Employer A”) participating in a multi-employer scheme shall not be responsible for liabilities which –
- (a) arise in relation to members of the scheme who are not and were never in pensionable service with Employer A; and 20
- (b) cannot be attributed to any other employers in the multi-employer pension scheme in accordance with paragraph 4.”
- 3 Transfer of economic entity to a limited liability company**
- (1) Regulation 6ZA (Employment-cessation events: general) of the Employer Debt Regulations is amended as follows. 25
- (2) After regulation 6ZA(5), insert the following –
- “(5A) Notwithstanding the other provisions of this regulation, an employment-cessation event does not occur where –
- (a) an economic entity which is –
- (i) an employer within a multi-employer pension scheme; 30
- and
- (ii) not a limited company,  
is transferred to a limited company;
- (b) the limited company to which the economic entity is transferred becomes the employer in the multi-employer pension scheme in place of the economic entity; and 35
- (c) the limited company to which the economic entity is transferred has been incorporated for the principal purpose of the transfer of that economic entity.
- (5B) In this regulation – 40
- (a) the following have the same meaning as in regulation 3 of the Transfer of Undertakings (Protection of Employment) Regulations (S.I. 2006/246) –
- “economic entity”;

“transfer”; and

- (b) “limited company” has the same meaning as in section 3 of the Companies Act 2006.”

#### 4 Responsibility for liabilities that cannot be attributed to an employer

- (1) The Pensions Act 2004 is amended as follows. 5
- (2) After section 130 (Board’s duty where application or notification received under section 129), insert –
- “130A Duty to assume responsibility for liabilities that cannot be attributed to an employer**
- “(1) *The Board must assume responsibility in accordance with this Chapter for multi-employer scheme liabilities if –* 10
- (a) *those liabilities cannot be attributed to a particular employer under the scheme using criteria specified in regulations made under this Act; and*
- (b) *the value of the assets of the scheme at the relevant time is less than the amount of the protected liabilities at that time.* 15
- (2) Where the trustees of a scheme become aware that conditions set out in subsection (1) are satisfied, they must make an application to the Board for it to assume responsibility for the liabilities under the scheme which cannot be attributed to a particular employer. 20
- (3) Where the Board receives an application under subsection (2), it must provide a notice to the trustees of the scheme, and employers participating in the scheme, setting out –
- (a) whether it considers that the conditions set out in subsection (1) are met; 25
- (b) the reasons for its decision under paragraph (a).
- (4) Where the Board issues a notice under subsection (3) that the conditions in subsection (1) have been met, it must assume responsibility in relation to the liabilities which cannot be attributed to a particular employer. 30
- (5) The Secretary of State may by regulations require applications under subsection (2) and notices under subsection (3) to be made in a prescribed format and within a prescribed timescale.
- (6) In this section “multi-employer scheme” means a scheme in relation to which there is more than one employer. 35

#### 5 Interpretation

In this Act, “Employer Debt Regulations” means the Occupational Pension Schemes (Employer Debt) Regulations 2005 (SI 2005/678).

#### 6 Extent, commencement and short title

- (1) This Act extends to England and Wales, and Scotland. 40
- (2) This Act comes into force three months after the day on which it is passed.

- (3) This Act may be cited as the Multi-employer Pension Schemes Act 2018.

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To make provision about multi-employer pension schemes, including provision for the protection of unincorporated businesses, such as plumbing businesses, from certain multi-employer pension scheme liabilities; and for connected purposes.

*Ordered to be brought in by Alan Brown,  
Pete Wishart, Deidre Brock,  
Patricia Gibson, Gavin Newlands,  
Jim Shannon, Mr Alistair Carmichael,  
Mr Jim Cunningham, Sir Peter Bottomley,  
Peter Aldous, Stephen Kerr  
and Hywel Williams.*

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*Ordered, by The House of Commons,  
to be Printed, 24th January 2018.*

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