

Key points

- Employers and trustees have a statutory duty to notify the Pensions Regulator if certain prescribed events occur in an occupational pension scheme.
- Some prescribed events do not have to be notified if certain conditions are met e.g. if the scheme is fully funded on the PPF basis.
- If an event occurs it must be notified in writing to the Pensions Regulator as soon as reasonably practicable.
- Civil penalties can be imposed for non-compliance.

Main sources

- Section 69 of the Pensions Act 2004
- The Pensions Regulator (Notifiable Events) Regulations 2005 (SI 2005/900)
- The Occupational Pension Schemes (Employer Debt) Regulations 2005 (SI 2005/678)

Introduction

Under section 69 of the Pensions Act 2004, prescribed events in respect of an eligible scheme and prescribed events in respect of the employer in relation to an eligible scheme must be notified to the Pensions Regulator. Broadly, an eligible scheme is an occupational pension scheme providing defined benefits. The prescribed events (referred to as notifiable events) are set out in Regulations.

Notification to the Pensions Regulator must be in writing and must be given as soon as reasonably practicable after the person giving it becomes aware of the notifiable event.

The Pensions Regulator can impose financial penalties for non-compliance.

Employer Notifiable Events

Employers are required to notify the events set out below:

- (a) any decision by the employer to take action which will, or is intended to, result in a debt which is or may become due to the scheme not being paid in full;
- (b) a decision by the employer to cease to carry on business in the UK or the cessation of business in the UK by that employer (without a decision having been made to do so);
- (c) the employer receives advice that it is trading wrongfully or a director or former director knows that there is no reasonable prospect that the employer will avoid going into insolvent liquidation;
- (d) breach by the employer of a banking covenant (except where the bank agrees not to enforce the covenant);
- (e) a decision by a controlling company to relinquish control of the employer company or the relinquishing of control of the employer company (without a decision having been made to do so); and
- (f) conviction of a director or partner of the employer for an offence involving dishonesty.

More information

Find out more about our Pension team at [gowlingwlg.com/pensions-uk](https://www.gowlingwlg.com/pensions-uk).

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You can also stay up to date with the latest pension developments at [gowlingwlg.com/en/united-kingdom/insights-resources](https://www.gowlingwlg.com/en/united-kingdom/insights-resources).

There are additional notifiable events in relation to guarantors where a "withdrawal arrangement" under the Occupational Pension Schemes (Employer Debt) Regulations 2005 is in place.

Trustee Notifiable Events

Trustees are required to notify the events set out below:

- (a) any decision by the trustees to take action which will, or is intended to, result in any debt which is or may become due to the scheme not being paid in full;
- (b) a decision by the trustees to make a transfer payment to, or accept a transfer payment from, another scheme, or the making or acceptance of that payment (where no decision to do so was made), the value of which is more than the lower of:
 - (i) 5% of the value of the scheme assets of the relevant scheme, and
 - (ii) £1,500,000;
- (c) a decision by the trustees to grant benefits on more favourable terms than those provided for by the scheme rules, without either seeking advice from the scheme actuary or securing additional funding where such funding was advised by the actuary;
- (d) a decision by the trustees to grant benefits to a member, or the granting of those benefits (where no decision of the trustees was required) which is more than the lower of:
 - (i) 5% of the scheme assets, and
 - (ii) £1,500,000;
- (e) any decision by the trustees which will result in a flexible apportionment arrangement (under Regulation 6E of the Occupational Pension Schemes (Employer Debt) Regulations 2005) taking effect; and
- (f) any decision by the trustees which will result in a scheme apportionment arrangement (under Regulation 6B of the Occupational Pension Schemes (Employer Debt) Regulations 2005) being entered into after a statutory debt under section 75 of the Pensions Act 1995 has been triggered.

The Regulator's Direction

The Pensions Regulator has issued a direction stating that some of the prescribed events set out above are not notifiable if certain conditions are satisfied e.g. if the relevant scheme is fully funded on the PPF basis. The direction can be found on the Regulator's website.

Reviewed as up to date January 2017

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