

Pensions Bulletin

Fact Sheet 3

Summer 2009 Issue 5

Notifiable events

1 Introduction

- 1.1 With effect from 6 April 2005 employers and pension scheme trustees have been required to notify The Pensions Regulator when certain events occur. These events are called “notifiable events”.
- 1.2 The purpose of the notifiable events rules is to reduce the risk of the circumstances which may lead to compensation being payable from the Pension Protection Fund (PPF).
- 1.3 The rules are designed to give the Regulator early warning of a possible call on the PPF. This gives the Regulator the opportunity to assist, or to intervene, before a call is made.
- 1.4 Only pension schemes which are eligible for entry to the PPF (i.e. all schemes that are not money purchase schemes), and their employers, are subject to the notifiable events rules. The rules comprise specific events which are likely to have a major impact on the security of members’ benefits.
- 1.5 Employers must notify the Regulator of “employer-related” events and trustees must notify the Regulator of “scheme-related” events.

2 What are the employer notifiable events?

- 2.1 The table below lists the employer notifiable events together with the conditions that must be satisfied for an employer to be exempt from his duty to notify:

Event	Notify
1. Any decision by the employer to take action which may result in a debt to the scheme not being paid in full.	Always notify
2. A decision by the employer to cease to carry on business in the United Kingdom.	Always notify
3. Wrongful trading by the employer within the meaning of section 214 of the Insolvency Act 1986.	Always notify
4. Any breach by the employer of a banking covenant other than where the bank agrees with the employer not to enforce the covenant.	Notify unless conditions 1 and 2 are satisfied (see below)
5. The conviction of a director or partner of the employer for an offence involving dishonesty.	Always notify

Condition 1	The scheme is funded at or above the PPF buy-out level.
Condition 2	The trustee has not needed to report (in the previous 12 months) any failure to the Regulator of non-payment under the scheme's schedule of contributions.

2.2 In addition to the above events, the Employer Debt Regulations(*) require that the guarantors under a withdrawal arrangement or approved withdrawal arrangement must notify the Regulator if any of the notifiable events outlined above apply in relation to them. There is also a duty on the relevant person to notify the Regulator if the employer suffers an insolvency event.

(*) for more details on the Employer Debt Regulations, please refer to Fact Sheet 5 that accompanies the Summer 2009 issue of the Pensions Bulletin.

3 What are the trustee notifiable events?

3.1 The table below lists the trustee notifiable events:

Event	Notify
1. Any decision by the trustee to seek to compromise a debt owed to a scheme.	Notify unless conditions 1, 2 and 3 are satisfied (see below)
2. A decision to pay or accept a transfer payment that exceeds the lower of 5% of scheme assets (as measured in the last valuation under scheme specific funding) and £1.5 million.	Notify unless conditions 1 and 2 are satisfied (see below)
3. A decision to grant benefits or a right to benefits for a single member where the cost exceeds the lower of 5% of scheme assets (as measured in the last valuation under scheme specific funding) and £1.5 million.	Notify unless conditions 1 and 2 are satisfied (see below)
4. Admitting a member or members to the scheme on more favourable terms than stated in the scheme rules without either seeking actuarial advice or obtaining additional funding.	Always notify

Condition 1	The scheme is funded at or above the PPF buy-out level.
Condition 2	The trustee has not needed to report (in the previous 12 months) any failure to the Regulator of non-payment under the scheme's schedule of contributions.
Condition 3	The uncollected debt is less than 05% of the scheme's assets (as valued at the most recent valuation).

4 Amendments

4.1 With effect from 6 April 2009, the following events no longer have to be notified to the Regulator:

- two or more changes in any key scheme post in the last 12 months;
- two or more changes in any key employer post in the last 12 months; and
- any change in the employer's credit rating.

5 When must a report be made to The Pensions Regulator?

5.1 An event must be notified to the Regulator as soon as reasonably practicable. What is reasonably practicable depends on the circumstances; however, in all cases it implies urgency.

6 Who has a duty to report notifiable events to The Pensions Regulator?

6.1 For employer events, the individuals who give effect to the legal personality of the organisation will be responsible for notification in the same way as they are for other legal obligations which fall on their organisation.

6.2 Trustees of pension schemes also have a duty to report notifiable events to the Regulator (as outlined in section 3 above).

7 How do I report a notifiable event to The Pensions Regulator?

7.1 All notifications must be in writing and, where possible, notifiers should use the standard form that can be found on the Regulator's website at www.thepensionsregulator.gov.uk

7.2 Reports can be sent by post or electronically. The Regulator's address is Napier House, Trafalgar Place, Brighton BN1 4DW.

7.3 If you believe that a notifiable event has occurred and you would like assistance in notifying the Regulator please contact The Pensions Trust.

8 What if I fail to report a notifiable event to The Pensions Regulator?

8.1 In the event of failure to notify, the Regulator will seek an explanation. Following this, it will have a range of actions it can take including requiring training or other assistance where appropriate; however, civil penalties can be imposed.

9 What should I do now?

9.1 It is important that all relevant members of your organisation are aware of the reporting requirements and that a procedure is in place to manage and anticipate the duty to notify.

10 Where can I find out more?

10.1 The above information is a summary of the code of practice on notifiable events published by the Regulator. The code of practice provides practical guidance on how to comply with the Pensions Act 2004.

10.2 A copy of the code of practice can be found on the Regulator's website at <http://www.thepensionsregulator.gov.uk/codesOfPractice/notifiableEvents/index.aspx>

10.3 Alternatively, please contact The Pensions Trust on 0845 608 5252. The Pensions Trust will be able to provide copies of the code of practice, the reporting form and answer any questions that you may have.

10.4 The Pensions Trust issued a letter in 2005 to all employers about the need to notify the Regulator of these notifiable events. The Trust also provides regular reminders to participating employers via our stewardship reporting process.

While every effort has been made to ensure the accuracy of the information contained in this Fact Sheet, it should not be treated or relied upon as a statement of law. Readers should contact their regular Account Manager at The Pensions Trust in relation to their own circumstances and/or refer to the original source material as appropriate.

