

Helping Employers With Their Plumbing Scheme Debt Challenges

Article By:

Matthew Giles

Debt illustrations are starting to land on the desks of employers who have historically participated in the Plumbing & Mechanical Services (UK) Industry Pension Scheme (“the Plumbing Scheme”).

Together with [Chris Hawley](#) of Barnett Waddingham, we explore the arising issues and what challenges are open to these employers.

Background

The challenges facing the Plumbing Scheme surrounding historic section 75 exit debts have been well publicised. Essentially, due to a lack of information in historic records regarding employment history, the Plumbing Scheme has not been able to calculate and issue debts to employers who have ceased to participate in the Scheme since September 2005.

The Trustee of the Plumbing Scheme has explained that it has spent a lot of time lobbying and communicating with the various regulatory powers about way the section 75 debt is applied. After several years – in 2014, the Trustee started work with its advisers on the process to begin calculating and recovering section 75 exit debts.

More recently, there has been multiple consultations with employers about the method for calculating the debts. The Plumbing Scheme has now started issuing indicative debt amounts, giving employers a period of 6 weeks to challenge the calculation and amounts, as well as opportunities to discuss payment options before a formal debt is issued to the employer.

Legal issues

The way employer debt legislation applies in these circumstances is very complicated and there are numerous grounds for legal challenge, such as.

- Limitation periods – the prescription (or limitation) period for certain money claims in Scotland is 5 years. Consideration should be given to whether this limit applies to section 75 exit debts and whether the clock starts ticking at the time of the employer cessation event. If it does, some of the debt claims would be time barred.

- Orphans – there appear to be a large proportion of orphan liabilities, which can significantly inflate the debts being claimed against employers. Employers will want to be satisfied that these liabilities have genuinely been orphaned and are appropriately apportioned.
- Legal entities – the delay in making the claim may mean that the employer group has since changed. Employers should consider whether the claim has been made against the right legal entity – the entity that actually employed the members of the Plumbing Scheme.

Calculation issues

Some of the debt amounts are very large and daunting to even the largest employers. There are a range of points which can be investigated to check whether the amount is reasonable or not. The challenges will very much depend on the quantum of the debt and the views of the former employer.

- Data – the debt illustrations include a headline summary of the data used in the calculation. Step 1 is to consider whether the data is a fair representation of the membership and whether or not further information is needed (say salary and service history) to check the pension calculations.
- Calculation – if more detail is provided on pension splits and the underlying calculation numbers (referred to as “K”, “L”, “D” and “E”) then it is possible to recreate the “K” part of the calculation to check this is reasonable. Using wider information from the Plumbing Scheme, this can be used to form a view on whether the overall calculation is reasonable.
- Assumptions – the actuarial assumptions are critical to the calculations. Employers with the largest debt amounts may wish to look into the assumptions in more detail and consider the impact of any changes in their debt calculation.

Next steps

If you receive a debt illustration, think carefully about the amount and whether you plan on challenging the amount.

If the amount is acceptable then you should engage with the Plumbing Scheme (within the 6 week period) to discuss the payment schedule as there may be options to spread payment over a period of years.

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National Law Review, Volume IX, Number 157

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