
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Refusal to assume responsibility

Schemes which become eligible schemes

130.—(1) Regulations may provide that where the Board is satisfied that an eligible scheme was not such a scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for the scheme under this Chapter.

(2) Where, by virtue of paragraph (1), the Board is required to refuse to assume responsibility for a scheme, it—

- (a) must issue a notice to that effect (a “withdrawal notice”), and
- (b) give a copy of that notice to—
 - (i) the Regulator,
 - (ii) the trustees or managers of the scheme, and
 - (iii) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(3) For the purposes of this Part a withdrawal notice issued by virtue of this Article is not binding until—

- (a) the period within which the issue of the notice may be reviewed by virtue of Chapter 6 has expired, and
- (b) if the issue of the notice is so reviewed—
 - (i) the review and any reconsideration,
 - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
 - (iii) any appeal against his determination or directions,

has been finally disposed of and the notice has not been revoked, varied or substituted.

(4) Where a withdrawal notice issued by virtue of this Article becomes binding, the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding notice to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and

- (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (5) Notices under this Article must be in the prescribed form and contain such information as may be prescribed.
- (6) A notice given under paragraph (4) must state the time from which the Board ceases to be involved with the scheme (see Article 133).

New schemes created to replace existing schemes

131.—(1) The Board must refuse to assume responsibility for a scheme (“the new scheme”) under this Chapter where it is satisfied that—

- (a) the new scheme was established during such period as may be prescribed,
- (b) the employer in relation to the new scheme was, at the date of establishment of that scheme, also the employer in relation to a scheme established before the new scheme (“the old scheme”),
- (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme has or have been made to the new scheme, and
- (d) the main purpose or one of the main purposes of establishing the new scheme and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new scheme in circumstances where, in the absence of the transfer or transfers, regulations under Article 130 would have operated to prevent such payments in respect of their rights under the old scheme.

(2) Where, under paragraph (1), the Board is required to refuse to assume responsibility for a scheme, it—

- (a) must issue a notice to that effect (a “withdrawal notice”), and
- (b) give a copy of that notice to—
 - (i) the Regulator,
 - (ii) the trustees or managers of the scheme, and
 - (iii) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(3) For the purposes of this Part a withdrawal notice issued under this Article is not binding until—

- (a) the period within which the issue of the notice may be reviewed by virtue of Chapter 6 has expired, and
- (b) if the issue of the notice is so reviewed—
 - (i) the review and any reconsideration,
 - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
 - (iii) any appeal against his determination or directions,has been finally disposed of and the notice has not been revoked, varied or substituted.

(4) Where a withdrawal notice issued under this Article becomes binding, the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding notice to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and

- (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (5) Notices under this Article must be in the prescribed form and contain such information as may be prescribed.
- (6) A notice given under paragraph (4) must state the time from which the Board ceases to be involved with the scheme (see Article 133).

Withdrawal following issue of Article 106(4) notice

- 132.**—(1) This Article applies where—
- (a) a notice under Article 106(4) (inability to confirm status of scheme) is issued in relation to an eligible scheme and becomes binding, and
 - (b) a withdrawal event has not occurred in relation to the scheme in respect of a withdrawal notice which has been issued during the period—
 - (i) beginning with the occurrence of the last insolvency event in relation to the employer, and
 - (ii) ending immediately before the notice under Article 106(4) becomes binding, and the occurrence of such a withdrawal event in respect of a withdrawal notice issued during that period is not a possibility (see Article 133).
- (2) The Board must determine whether any insolvency event—
- (a) has occurred in relation to the employer since the issue of the notice under Article 106(4), or
 - (b) is likely to so occur before the end of the period of six months beginning with the date on which this Article applies.
- (3) If the Board determines under paragraph (2) that no insolvency event has occurred or is likely to occur as mentioned in that paragraph, it must issue a notice to that effect (a “withdrawal notice”).
- (4) Where—
- (a) no withdrawal notice is issued under paragraph (3) before the end of the period mentioned in paragraph (2)(b), and
 - (b) no further insolvency event occurs in relation to the employer during that period,
- the Board must issue a notice to that effect (a “withdrawal notice”).
- (5) Where the Board is required to issue a withdrawal notice under this Article, it must give a copy of the notice to—
- (a) the Regulator,
 - (b) the trustees or managers of the scheme, and
 - (c) the employer.
- (6) For the purposes of this Part, a withdrawal notice issued under this Article is not binding until—
- (a) the period within which the issue of the notice may be reviewed by virtue of Chapter 6 has expired, and
 - (b) if the issue of the notice is so reviewed—
 - (i) the review and any reconsideration,
 - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
 - (iii) any appeal against his determination or directions,

has been finally disposed of and the notice has not been revoked, varied or substituted.

(7) Where a withdrawal notice issued under this Article becomes binding, the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding notice to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and
- (c) the employer.

(8) Notices under this Article must be in the prescribed form and contain such information as may be prescribed.

(9) A notice given under paragraph (7) must state the time from which the Board ceases to be involved with the scheme (see Article 133).