

2005 No. 357

PENSIONS

The Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Made - - - - - *29th July 2005*

Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5)(a), 7(5)(a) and (7)(a), 64(2), 188(4)(a), 189(2), 280(1)(b) and (2)(b) and 287(2) and (3) of, and paragraph 23 of Schedule 6 to, the Pensions (Northern Ireland) Order 2005(a), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into operation on 19th August 2005 except—

- (a) this regulation and regulation 3(1), (3) and (4) which shall come into operation on 1st August 2005;
 - (b) regulation 8(2)(a)(iii) and (v) and (3) to (6) which shall come into operation on 5th December 2005; and
 - (c) regulation 8(7), in respect of—
 - (i) a person under the age of 25 on 5th April 2006 who is entitled to receive compensation prior to 6th April 2006, which shall come into operation on the date on which he attains the age of 25; or
 - (ii) any other person, which shall come into operation on 6th April 2006.
- (2) In these Regulations “the Order” means the Pensions (Northern Ireland) Order 2005.

Amendment of the Order

2.—(1) The Order shall be amended in accordance with paragraphs (2) to (4).

(2) In Article 7(6) (functions exercisable by the Determinations Panel) after sub-paragraph (h) there shall be inserted the following sub-paragraphs—

“(ha) Article 58(7) of that Order (power of the Regulator in prescribed circumstances to extend or further extend the period referred to in Article 58(6) of that Order(b) in relation to a schedule of contributions);

(a) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84, and in its application to multi-employer schemes by S.R. 2005 No. 91

(b) Article 58(6) was amended by paragraph 12(1) of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). *See also* S.R. 1996 No. 570

(hb) Article 60(7) of that Order (power of the Regulator in prescribed circumstances to extend or further extend the period applicable under Article 60(3) of that Order in relation to securing an increase in value);”.

(3) In Schedule 2 (the reserved regulatory functions) after paragraph 15 there shall be inserted the following paragraphs—

“15A. The power under Article 58(7) to extend or further extend the period referred to in Article 58(6) of that Order in relation to a schedule of contributions for an occupational pension scheme.

15B. The power under Article 60(7) to extend or further extend the period applicable under Article 60(3) of that Order in relation to securing an increase in the value of the assets of an occupational pension scheme.”.

(4) In Schedule 8 (reviewable matters) after paragraph 7 there shall be inserted the following paragraph—

“7A. Any determination by the Board under Article 125(2) (determination on a review of an ill health pension that compensation in respect of the pension is to be determined in the prescribed manner).”.

(5) Article 7(6)(ha) and (hb) of, and paragraphs 15A and 15B of Schedule 2 to, the Order (as inserted by paragraphs (2) and (3)) shall only have effect in the case of applications made by virtue of Articles 58(7) and 60(7) of the Pensions (Northern Ireland) Order 1995(a) on or after the date on which these Regulations come into operation for the exercise of the power to extend or further extend under Article 58(7) or 60(7) of that Order.

Amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations

3.—(1) The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005(b) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2) after the definition of “the Order” there shall be inserted the following definitions—

““the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;

“employer”, in relation to a single-employer section of a segregated scheme which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it;”;

(b) for paragraph (3)(c) there shall be substituted the following paragraph—

“(3) In the application of Part III of the Order, the definition of “multi-employer scheme” in Article 280(4) and of these Regulations “employer”, in relation to a multi-employer scheme that is not a segregated scheme or a multi-employer section of a segregated scheme—

(a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—

(a) S.I. 1995/3213 (N.I. 22); Article 60 was amended by S.R. 2002 No. 64. *See also* S.R. 1996 No. 570

(b) S.R. 2005 No. 91; relevant amending regulations are S.R. 2005 No. 194

(c) Paragraph (3) was amended by regulation 2(2) of S.R. 2005 No. 194

- (i) condition A is that a debt under Article 75 of the 1995 Order^(a) became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
- (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.”.
- (3) For Part III (segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of participating employer) there shall be substituted the following Part—

“PART III

SEGREGATED SCHEMES: MULTI-EMPLOYER SECTIONS WITHOUT
REQUIREMENT FOR PARTIAL WIND UP ON WITHDRAWAL OF A
PARTICIPATING EMPLOYER

Application and effect

14.—(1) This regulation applies to a multi-employer section of a segregated scheme the rules of which do not provide for the partial winding up of the section when an employer in relation to the section ceases to participate in the scheme.

(2) Except as otherwise provided in this Part, in the case of a section of a scheme to which this regulation applies—

- (a) Part III of the Order, except Chapter 4 (fraud compensation), shall be read as if it contained the modifications provided for by this Part; and
- (b) references in Part III of the Order, except in Chapter 4, to—
 - (i) “scheme rules” shall be read as if they were references to “scheme rules relating to the section”;

(a) Article 75 was amended by Article 248 of the Pensions (Northern Ireland) Order 2005

- (ii) “the scheme” shall be read as if they were references to “the section”;
 - (iii) “the employer” shall be read as if they were references to “an employer in relation to the section”, and
 - (iv) “trustees or managers of the scheme” shall, in relation to a multi-employer section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.
- (3) Paragraph (2) shall not have effect in relation to Article 157 (initial levy).

Notification of insolvency events, confirmation of scheme status etc.

15.—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where, in the case of a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”), an insolvency event occurs in relation to any employer in relation to that section.”; and

- (b) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where an insolvency event has occurred in relation to any employer in relation to a multi-employer section of a segregated scheme.”;

- (b) in paragraph (2)—

- (i) for “the employer” there were substituted “an employer”;
- (ii) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant section of the scheme”, and
- (iii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant section of the scheme”;

- (c) in paragraph (3)(a) for “the employer” there were substituted “an employer”;

- (d) in paragraph (4)—

- (i) for “the employer” there were substituted “an employer”, and
- (ii) for “in relation to the scheme” there were substituted “in relation to the section”;

- (e) in paragraph (5)—

- (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”, and
- (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”;

- (f) in paragraph (6) for “the employer” there were substituted “an employer”; and

- (g) after paragraph (6) there were inserted the following paragraph—

“(6A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice issued by an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as

soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where the Board receives a notice under Article 106(6) (“the Article 106 notice”) in relation to any employer in relation to a multi-employer section of a segregated scheme at a time when the Board has previously received such a notice in relation to all other employers in relation to that section of the scheme.”;

(b) for paragraph (2) there were substituted the following paragraph—

“(2) The Board must determine whether to approve the Article 106 notice received in relation to that employer.”; and

(c) after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) in paragraph (1)—

(i) for “This Article applies where in relation to an occupational pension scheme” there were substituted “This Article applies where in relation to a multi-employer section of a segregated scheme”, and

(ii) in sub-paragraphs (a) and (b) for “the employer” there were substituted “an employer”;

(b) in paragraph (4)—

(i) in sub-paragraph (d) for “the employer” there were substituted “an employer”, and

(ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and

(c) after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(5) Article 109 (binding notices confirming status of scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if after paragraph (3) there were inserted the following paragraph—

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Eligible schemes

16.—(1) Except as otherwise provided in this Part, for the purposes of Part III of the Order, except Chapter 4, as it applies to a section of a scheme to which regulation 14 applies, references to “an eligible scheme” shall be read as if they were references to a multi-

employer section of a segregated scheme where that section, if it were a scheme, would not be—

- (a) a money purchase scheme; or
 - (b) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b).
- (2) Paragraph (1) shall not apply for the purposes of Articles 157 to 164 (the levies).

Duty to assume responsibility for schemes

17.—(1) Article 111 (duty to assume responsibility for schemes following insolvency event) shall have effect in relation to a section of a scheme to which regulation 14 applies and, for this purpose, shall be modified so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where a qualifying insolvency event has occurred in relation to an employer in relation to a multi-employer section of a segregated scheme.”;

- (b) for paragraph (3) there were substituted the following paragraph—

“(3) For the purposes of this Article, an insolvency event (“the current event”) in relation to an employer in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, is a qualifying insolvency event if—

- (a) it occurs—

- (i) simultaneously in relation to more than one of the employers in relation to that section of the scheme at a time when those employers are the only employers in relation to that section, or
- (ii) in relation to an employer in relation to that section of the scheme at a time when all other employers in relation to that section have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under Article 113(1A) or a notice given by the Board in respect of them under Article 113(5) by virtue of a notice given by the Regulator under Article 113(4)(a),

- (b) it occurs on or after the day appointed under Article 110(2), and

- (c) it—

- (i) is the first insolvency event to occur in relation to that employer on or after that day, or
- (ii) does not occur within an assessment period (see Article 116) in relation to the section which began before the occurrence of the current event.”.

(2) Article 112 (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme—

- (a) the trustees or managers make an application under paragraph (1)(a) or (b) of Article 113 (“an Article 113 application”), or
- (b) the Board receives a notice given by the Regulator under paragraph (4)(b) of that Article.”.

(3) Article 113 (applications and notifications for the purposes of Article 112) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) for paragraph (1) there were substituted the following paragraph—

“(1) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme—

(a) have—

(i) notified the Board in accordance with paragraph (1A) that an employer in relation to the section is unlikely to continue as a going concern at a time when all other employers in relation to that section have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the section under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), or

(ii) received a notice given by the Board under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a) in respect of an employer in relation to the section at a time when all other employers in relation to that section have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the section under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), or

(b) are aware that a person is no longer an employer, or that persons are no longer employers, in relation to the section at a time when—

(i) all other employers in relation to that section have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the section under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), and

(ii) at least one such insolvency event occurred, or at least one such notice was given under paragraph (1A) or (5) by virtue of a notice given by the Regulator under paragraph (4)(a), on or after 6th April 2005 in relation to an employer in relation to that section,

they must, except where an assessment period has already begun in relation to that section of the scheme, make an application to the Board for it to assume responsibility for the section under Article 112.”;

(b) after paragraph (1) there were inserted the following paragraphs—

“(1A) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that an employer in relation to that section—

(a) is unlikely to continue as a going concern, and

(b) the prescribed requirements are met in relation to that employer,

they must give the Board a notice to that effect.

(1B) The notice which must be given to the Board in accordance with paragraph (1A) must be in writing and must contain the following information—

(a) a description of the type or purpose of the notice,

- (b) the name of the employer in relation to the section of the scheme in respect of which the notice is given,
- (c) a statement by the trustees or managers of the section that the employer in respect of which the notice is given is unlikely to continue as a going concern and that the requirements prescribed under paragraph (1A)(b) have been met in relation to that employer,
- (d) the date on which the trustees or managers of the section became aware that the employer in respect of which the notice is given is unlikely to continue as a going concern, and
- (e) the date on which the notice was sent to the Board by the trustees or managers of the scheme.

(1C) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme make an application to the Board under paragraph (1)(a) or (b), they must as soon as practicable notify that fact to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

- (c) for paragraph (4) there were substituted the following paragraph—

“(4) Where, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, the Regulator—

- (a) becomes aware that an employer in relation to that section of the scheme—
 - (i) is unlikely to continue as a going concern, and
 - (ii) meets the requirements prescribed under paragraph (1A)(b), or
- (b) is aware that a person is no longer an employer, or that persons are no longer employers, in relation to that section of the scheme at a time when—
 - (i) all other employers in relation to that section of the scheme have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under paragraph (1A) or (5) by virtue of a notice given by the Regulator under paragraph (4)(a), on or after 6th April 2005 in relation to an employer in relation to that section of the scheme,

it must, except where an assessment period has already begun in relation to that section of the scheme, give the Board a notice to that effect.”; and

- (d) after paragraph (5) there were inserted the following paragraph—

“(5A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Board’s duty where application or notification received under Article 113

18. Article 114 (Board’s duty where application or notification received under Article 113) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where the Board—

- (a) receives an application under paragraph (1) of Article 113 and is satisfied that either sub-paragraph (a) or (b) of that paragraph is satisfied in relation to the application, or
- (b) is notified by the Regulator under Article 113(4)(b).”;
- (b) in paragraph (2) after “a scheme rescue is not possible” there were inserted “in relation to a multi-employer section of a segregated scheme”;
- (c) in paragraph (3) after “a scheme rescue has occurred” there were inserted “in relation to that section”;
- (d) after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;
- (e) in paragraph (5)—
 - (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”, and
 - (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”; and
- (f) after paragraph (7) there were inserted the following paragraph—

“(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Protected liabilities

19. Article 115 (protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph—

- “(1) For the purposes of this Chapter the protected liabilities, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”) are—
- (a) the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the section in accordance with this Chapter,
 - (b) the liabilities of the scheme as a whole which are reasonably attributable to the section and which are not liabilities to, or in respect of, its members, and
 - (c) the estimated cost of winding up the section.”.

Assessment periods

20. Article 116 (assessment periods) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (2)—
 - (i) for “in relation to an eligible scheme” there were substituted “in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme”;
 - (ii) for “the employer” there were substituted “an employer in relation to that section”, and
 - (iii) after “an assessment period” there were inserted “in relation to the section”;

- (b) in paragraph (4) for “in relation to an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a), an assessment period” there were substituted “in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under Article 113(1)(a) or (b) or a notification is received under Article 113(4)(b), an assessment period in relation to that section of the scheme”; and
- (c) in paragraph (5) for “paragraph 113(5)(a)” there were substituted “paragraph 113(4)(b)”.

Directions

21. Article 118 (directions) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (2)—
 - (i) for “the scheme’s protected liabilities do not exceed its assets” there were substituted “the protected liabilities of the section do not exceed its assets”, and
 - (ii) for “in relation to the scheme” there were substituted “in relation to the segregated scheme in question”; and
- (b) in paragraph (3)(a)(i) for “the trustees or managers” there were substituted “any trustees or managers”.

Power to validate contraventions of Article 119 and Board to act as creditor of the employer

22.—(1) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (2)(c) for “in relation to the employer, or if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer, or if there is no such insolvency practitioner, that employer”; and
- (b) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(2) Article 121(2) (Board to act as creditor of the employer) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if for “the employer” there were substituted “an employer”.

Valuation of assets

23.—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if for “the scheme” there were substituted “the relevant section of the scheme”.

(2) Article 128 (approval of valuation) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (1) for “obtains a valuation in respect of a scheme” there were substituted “obtains a valuation in respect of the relevant section of the scheme”;
- (b) in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (c) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a valuation from the Board under paragraph (2), they must send a copy of that valuation as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Article 129 (binding valuations) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (2) for “in relation to a scheme” there were substituted “in relation to the relevant section of the scheme”;
- (b) in paragraph (3)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (c) after paragraph (3) there were inserted the following paragraph—

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of a binding valuation, they must send a copy of the notice and the binding valuation as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Refusal to assume responsibility for a scheme

24.—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) Regulations may provide that where the Board is satisfied that any multi-employer section of a segregated scheme is not, for the purposes of this Part, an eligible scheme throughout such a period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;

- (b) in paragraph (2)—

(i) for “a scheme” there were substituted “a section of the scheme”, and

(ii) in sub-paragraph (b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”;

- (c) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

- (d) in paragraph (4)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and

- (e) after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) The Board must refuse to assume responsibility for a new multi-employer section of a segregated scheme (“the new section”) under this Chapter where it is satisfied that—

- (a) the new section was established during such period as may be prescribed,
 - (b) an employer in relation to the new section was, at the date of establishment of that section, also the employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new section,
 - (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme or the old section has or have been made to the new section, and
 - (d) the main purpose or one of the main purposes of establishing the new section 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 section 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 or the old section.”;
- (b) in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”;
- (c) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

- (d) in paragraph (4)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (e) after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (5)(c) for “the employer” there were substituted “any employer”;
- (b) after paragraph (5) there were inserted the following paragraph—

“(5A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice issued by the Board under this section, they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

- (c) in paragraph (7)(c) for “the employer” there were substituted “any employer”; and
- (d) after paragraph (7) there were inserted the following paragraph—

“(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities

25.—(1) Article 135(8) (application for reconsideration) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if in the definition of “protected benefits quotation” for the words from ““protected benefits quotation”, in relation to a scheme, means” to “from the reconsideration time—” there were substituted—

““protected benefits quotation”, in relation to a section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the section from the trustees or managers of the scheme, which would provide in respect of each member of the section from the reconsideration time—”.

(2) Article 136 (duty to assume responsibility following reconsideration) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) for paragraph (2) there were substituted the following paragraph—

“(2) The Board must assume responsibility in accordance with this Chapter for a multi-employer section of a segregated scheme if it is satisfied that the value of the assets of the section at the reconsideration time is less than the aggregate of—

- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) the liabilities of the scheme as a whole at that time which are reasonably attributable to the section and which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated cost of winding up the section at that time.”;

(b) after paragraph (3) there were inserted the following paragraph—

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (3), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”;

(c) after paragraph (7) there were inserted the following paragraph—

“(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(3) Article 137 (closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraphs (2) and (5) for “a closed scheme” there were substituted “a closed section of the scheme”; and
- (b) after paragraph (6) there were inserted the following paragraph—

“(6A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (6), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

(4) Article 138 (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (2)(a) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible

in relation to a multi-employer section of a segregated scheme but section has sufficient assets to meet the protected liabilities”);

- (b) in paragraph (6) for “a scheme is wound up” there were substituted “a multi-employer section of a segregated scheme is wound up”;
- (c) in paragraph (11) for “winding up of a scheme” there were substituted “winding up of a multi-employer section of a segregated scheme”; and
- (d) in paragraph (12) for “in relation to a scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”.

(5) Article 139 (treatment of closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph—

“(1) In this Article “closed scheme” means a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under Article 137 to continue as a closed section of the scheme.”.

(6) Article 141 (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”.

Transfer notice and assumption of responsibility for a scheme

26.—(1) Article 144 (transfer notice) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (1) for “required to assume responsibility for a scheme” there were substituted “required to assume responsibility for a multi-employer section of a segregated scheme”;
- (b) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”; and

- (c) for paragraph (6) there were substituted the following paragraph—

“(6) The Board must give a copy of the transfer notice given under paragraph (2) to—

- (a) the Regulator, and
- (b) an insolvency practitioner acting in relation to every employer in relation to the section of the scheme in respect of which the transfer notice is given.”.

(2) Article 145 (effect of Board assuming responsibility for a scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) in paragraph (2)(b) after “obligations” there were inserted “to or in respect of members of that section”; and
- (b) in paragraph (4)(a) after “to or in respect of persons” there were inserted “who are or were members of that section”.

(3) Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if in paragraph 1 for “an occupational pension scheme” there were substituted “a multi-employer section of a segregated multi-employer scheme”.

The pension compensation provisions

27.—(1) Article 146(1) (the pension compensation provisions) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

- (a) for “in relation to a scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”;
- (b) in sub-paragraphs (a) and (b) after “members” there were inserted “of that section”;
- (c) in sub-paragraph (c) after “payable” there were inserted “to or in respect of members of that section”; and
- (d) in sub-paragraph (d) at the end there were added “payable to or in respect of members of that section”.

(2) Article 147(2) (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if in sub-paragraph (a) after “to any member” there were inserted “of that section”.

(3) Article 150(1) (duty to pay scheme benefits unpaid at assessment date etc.) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if for “assumes responsibility for a scheme” there were substituted “assumes responsibility for a multi-employer section of a segregated scheme”.

(4) For Part VI (non-segregated schemes: schemes without provision for partial wind up on withdrawal of a participating employer) there shall be substituted the following Part—

“PART VI

NON-SEGREGATED SCHEMES: SCHEMES WITHOUT PROVISION FOR PARTIAL WIND UP ON WITHDRAWAL OF A PARTICIPATING EMPLOYER

Application and effect

61. This regulation applies to a multi-employer scheme which is not divided into two or more sections (a “non-segregated scheme”) the rules of which do not provide for the partial winding up of the scheme when an employer in relation to the scheme ceases to participate in the scheme.

Notification of insolvency events, confirmation of scheme status etc.

62.—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where, in the case of a multi-employer scheme which is not divided into two or more sections (a “non-segregated scheme”), an insolvency event occurs in relation to an employer in relation to the scheme.”; and

- (b) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a non-segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of the scheme) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

- (a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where an insolvency event has occurred in relation to any employer in relation to a non-segregated scheme.”;

- (b) in paragraphs (2), (3)(a), (4) and (6) for “the employer” there were substituted “an employer”; and

- (c) after paragraph (6) there were inserted the following paragraph—
- “(6A) Where the trustees or managers of a non-segregated scheme receive a notice issued by an insolvency practitioner or a former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.
- (3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—
- (a) for paragraph (1) there were substituted the following paragraph—
- “(1) This Article applies where the Board receives a notice under Article 106(6) (“the Article 106 notice”) in relation to an employer in relation to a non-segregated scheme at a time when the Board has previously received such a notice in relation to all other employers in relation to that scheme.”;
- (b) for paragraph (2) there were substituted the following paragraph—
- “(2) The Board must determine whether to approve the Article 106 notice received in relation to that employer.”;
- (c) in paragraph (4)(e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and
- (d) after paragraph (4) there were inserted the following paragraph—
- “(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.
- (4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—
- (a) in paragraph (1)—
- (i) for “This Article applies where in relation to an occupational pension scheme” there were substituted “This Article applies where in relation to a non-segregated scheme”, and
- (ii) in sub-paragraphs (a) and (b) for “the employer” there were substituted “an employer”;
- (b) in paragraph (4)—
- (i) in sub-paragraph (d) for “the employer” there were substituted “an employer”, and
- (ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and
- (c) after paragraph (4) there were inserted the following paragraph—
- “(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.
- (5) Article 109 (binding notices confirming status of scheme) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—
- (a) in paragraph (3)—
- (i) in sub-paragraph (d) for “the employer” there were substituted “an employer”, and
- (ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and
- (b) after paragraph (3) there were inserted the following paragraph—
- “(3A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice,

they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

Eligible schemes

63.—(1) Article 110(1) (eligible schemes) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a non-segregated scheme”.

(2) Paragraph (1) shall not have effect in relation to Articles 157 to 164 (the levies).

Duty to assume responsibility for schemes

64.—(1) Article 111 (duty to assume responsibility for schemes following insolvency event) shall have effect in relation to a scheme to which regulation 61 applies and, for this purpose, shall be modified so that it shall be read as if—

(a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where a qualifying insolvency event has occurred in relation to an employer in relation to a non-segregated scheme.”; and

(b) for paragraph (3) there were substituted the following paragraph—

“(3) For the purposes of this Article, an insolvency event (“the current event”) in relation to an employer in relation to an eligible scheme is a qualifying insolvency event if—

(a) it occurs—

(i) simultaneously in relation to more than one of the employers in relation to the scheme at a time when those employers are the only employers in relation to the scheme, or

(ii) in relation to an employer in relation to the scheme at a time when all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the section under Article 113(1A) or a notice given by the Board in respect of them under Article 113(5) by virtue of a notice given by the Regulator under Article 113(4)(a),

(b) it occurs on or after the day appointed under Article 110(2), and

(c) it—

(i) is the first insolvency event to occur in relation to that employer on or after that day, or

(ii) does not occur within an assessment period (see Article 116) in relation to the scheme which began before the occurrence of the current event.”.

(2) Article 112 (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where, in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme—

(a) the trustees or managers of the scheme make an application under paragraph (1)(a) or (b) of Article 113 (“an Article 113 application”), or

(b) the Board receives a notice given by the Regulator under paragraph (4)(b) of that Article.”.

Applications and notifications and Board's duty where application or notification received under Article 113

65.—(1) Article 113 (applications and notifications for the purposes of Article 112) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for paragraph (1) there were substituted the following paragraph—

“(1) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme—

(a) have—

(i) notified the Board in accordance with paragraph (1A) that an employer in relation to the scheme is unlikely to continue as a going concern at a time when all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the scheme under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), or

(ii) received a notice given by the Board under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a) in respect of an employer in relation to the scheme at a time when all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the scheme under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), or

(b) are aware that a person is no longer an employer, or that persons are no longer employers, in relation to the scheme at a time when—

(i) all other employers in relation to the scheme have either had—

(aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or

(bb) a notice given in respect of them by the trustees or managers of the scheme under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), and

(ii) at least one such insolvency event occurred, or at least one such notice was given under paragraph (1A) or (5) by virtue of a notice given by the Regulator under paragraph (4)(a), on or after 6th April 2005 in relation to an employer in relation to that scheme,

they must, except where an assessment period has already begun in relation to that scheme, make an application to the Board for it to assume responsibility for the scheme under Article 112.”; and

(b) after paragraph (1) there were inserted the following paragraphs—

“(1A) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that an employer in relation to the scheme—

(a) is unlikely to continue as a going concern, and

(b) the prescribed requirements are met in relation to that employer,

they must give the Board a notice to that effect.

(1B) The notice which must be given to the Board in accordance with paragraph (1A) must be in writing and must contain the following information—

- (a) a description of the type or purpose of the notice,
- (b) the name of the employer in relation to the scheme in respect of which the notice is given,
- (c) a statement by the trustees or managers of the scheme that the employer in respect of which the notice is given is unlikely to continue as a going concern and that the requirements prescribed under paragraph (1A)(b) have been met in relation to that employer,
- (d) the date on which the trustees or managers of the scheme became aware that the employer in respect of which the notice is given is unlikely to continue as a going concern, and
- (e) the date on which the notice was sent to the Board by the trustees or managers of the scheme.

(1C) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme make an application to the Board under paragraph (1)(a) or (b), they must as soon as practicable notify that fact to all the employers in relation to the scheme.”;

(c) for paragraph (4) there were substituted the following paragraph—

“(4) Where, in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, the Regulator—

- (a) becomes aware that an employer in relation to the scheme—
 - (i) is unlikely to continue as a going concern, and
 - (ii) meets the requirements prescribed under paragraph (1A)(b), or
- (b) is aware that a person is no longer an employer, or that persons are no longer employers, in relation to the scheme at a time when—
 - (i) all other employers in relation to the scheme have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the scheme under paragraph (1A) or a notice given by the Board in respect of them under paragraph (5) by virtue of a notice given by the Regulator under paragraph (4)(a), and
 - (ii) at least one such insolvency event occurred, or at least one such notice was given under paragraph (1A) or (5) by virtue of a notice given by the Regulator under paragraph (4)(a), on or after 6th April 2005 in relation to an employer in relation to that scheme,

it must, except where an assessment period has already begun in relation to the scheme, give the Board a notice to that effect.”; and

(d) after paragraph (5) there were inserted the following paragraph—

“(5A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(2) Article 114 (Board’s duty where application or notification received under Article 113) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) for paragraph (1) there were substituted the following paragraph—

“(1) This Article applies where the Board—

- (a) receives an application under paragraph (1) of Article 113 and is satisfied that either sub-paragraph (a) or (b) of that paragraph is satisfied in relation to the application, or
- (b) is notified by the Regulator under Article 113(4)(b).”;

(b) after paragraph (4) there were inserted the following paragraph—

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and

(c) after paragraph (7) there were inserted the following paragraph—

“(7A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

Assessment periods

66. Article 116 (assessment periods) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) in paragraph (2)—

(i) for “in relation to an eligible scheme” there were substituted “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme”;

(ii) for “the employer,” there were substituted “an employer in relation to the scheme”, and

(iii) after “an assessment period” there were inserted “in relation to the scheme”;

(b) in paragraph (4) for “in relation to an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a), an assessment period” there were substituted “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under Article 113(1)(a) or (b) or a notification is received under Article 113(4)(b), an assessment period in relation to the scheme”; and

(c) in paragraph (5) for “paragraph 113(5)(a)” there were substituted “paragraph 113(4)(b)”.

Power to validate contraventions of Article 119 and Board to act as creditor of the employer

67.—(1) Article 120(2)(c) (power to validate contraventions of Article 119) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if for “in relation to the employer, or if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(2) Article 121(2) (Board to act as creditor of the employer) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if for “the employer” there were substituted “an employer”.

Valuation of assets

68. Articles 128(2)(b)(iii) (approval of valuation) and 129(3)(c) (binding valuations) shall be modified in their application to a scheme to which regulation 61 applies so that they shall be read as if for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

Refusal to assume responsibility

69.—(1) Articles 130(2)(b)(iii) and (4)(c) (schemes which become eligible schemes) and 131(2)(b)(iii) and (4)(c) (new schemes created to replace existing schemes) shall be modified in their application to a scheme to which regulation 61 applies so that they shall be read as if for “in relation to the employer or, if there is no such insolvency practitioner,

the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(2) Article 132(5)(c) and (7)(c) (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if for “the employer” there were substituted “any employer”.

Transfer notice and the pension compensation provisions

70.—(1) Article 144 (transfer notice) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if—

(a) in paragraph (1) for “where the Board is required to assume responsibility for a scheme” there were substituted “where the Board is required to assume responsibility for a non-segregated scheme”;

(b) after paragraph (2) there were inserted the following paragraph—

“(2A) Where the trustees or managers of a non-segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and

(c) for paragraph (6) there were substituted the following paragraph—

“(6) The Board must give a copy of the transfer notice given under paragraph (2) to—

(a) the Regulator, and

(b) an insolvency practitioner acting in relation to every employer in relation to the scheme in respect of which the transfer notice is given.”.

(2) Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if in paragraph 1 for “an occupational pension scheme” there were substituted “a non-segregated multi-employer scheme”.

(3) Schedule 6 to the Order (pension compensation provisions) shall be modified in its application to a scheme to which regulation 61 applies so that it shall be read as if in paragraph 1 for “an eligible scheme” there were substituted “a non-segregated multi-employer scheme which is, for the purposes of Part III, an eligible scheme”.

Amendment of the Pension Protection Fund (Entry Rules) Regulations

4. In regulation 1 of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005^(a) (citation, commencement and interpretation)—

(a) in paragraph (2) after the definition of “the FSMA 2000” there shall be inserted the following definition—

““the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;”;

(b) for paragraphs (3) and (4) there shall be substituted the following paragraphs—

“(3) In Part III of the Order and these Regulations, “employer”, in relation to—

(a) an occupational pension scheme which is not a multi-employer scheme, or

(b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it.

(4) In these Regulations, “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

(a) S.R. 2005 No. 126, to which there are amendments not relevant to these regulations

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.”.

Amendment of the Pension Protection Fund (Provision of Information) Regulations

5.—(1) The Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005^(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “appointed representative” there shall be inserted the following definition—

““the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;”;

(ii) after the definition “multi-employer scheme” there shall be inserted the following definition—

^(a) S.R. 2005 No. 129

““non-segregated scheme” means a multi-employer scheme which is not a segregated scheme;”;

- (iii) the word “and” after the definition of “review decision” shall be omitted and after that definition there shall be inserted the following definition—

““segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section, and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section;”;

- (b) for paragraphs (2) and (3) there shall be substituted the following paragraphs—

“(2) In these Regulations, “employer”, in relation to—

- (a) an occupational pension scheme which is not a multi-employer scheme; or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it.

(3) In these Regulations, “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—

- (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid before the assessment date;

- (ii) condition B is that—

- (aa) such a debt became due;

- (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and

- (cc) the reduced amount has been paid in full before the assessment date;

- (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;

- (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;

- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—

- (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid;

- (ii) condition B is that—

- (aa) such a debt became due;

- (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and

- (cc) the reduced amount has been paid in full;

- (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
- (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.”.

(3) In paragraph 1(1) of Schedule 2 (information to be provided by trustees or managers) the definition of “assessment date” shall be omitted.

Amendment of the Pension Protection Fund (Valuation) Regulations

6. In regulation 1(2) of the Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005(a) (interpretation)—

(a) after the definition of “appropriate person” there shall be inserted the following definition—

““the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;”;

(b) for the definitions of “employer” in relation to an occupational pension scheme which has no active members and in relation to a multi-employer scheme or a section of a multi-employer scheme there shall be substituted the following definitions—

““employer”, in relation to—

- (a) an occupational pension scheme which is not a multi-employer scheme; or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it;

“employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that an Article 75 debt became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;

(a) S.R. 2005 No. 131

- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that an Article 75 debt became due from that employer and the full amount of the debt has been paid;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;”;
- (c) after the definition of “financial support direction” there shall be inserted the following definition—

““non-segregated scheme” means a multi-employer scheme which is not a segregated scheme;”;
- (d) the word “and” after the definition of “restoration order” shall be omitted; and
- (e) after the definition of “restricted information” there shall be added the following definition—

““segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

 - (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section; and
 - (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.”.

Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations

7.—(1) The Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005(a) shall be amended in accordance with paragraphs (2) to (4).

- (2) In regulation 1(2) (interpretation)—
 - (a) after the definition of “the Order” there shall be inserted the following definition—

““the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;”;
 - (b) for the definitions of “employer” in relation to an occupational pension scheme that has no active members and in relation to a multi-employer scheme or a section of a multi-employer scheme there shall be substituted the following definitions—

““employer”, in relation to—

 - (a) an occupational pension scheme which is not a multi-employer scheme; or
 - (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately

(a) S.R. 2005 No. 138, to which there are amendments not relevant to these regulations

before the time at which the scheme or section ceased to have any active members in relation to it;

“employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;”;
- (c) in the definition of “interested person” for “regulation 28.” there shall be substituted “regulation 27;” and after that definition there shall be added the following definitions—
 - ““non-segregated scheme” means a multi-employer scheme which is not a segregated scheme;
 - “segregated scheme” means a multi-employer scheme which is divided into two or more sections where—
 - (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section; and
 - (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.”.

(4) In these Regulations “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.”.

(3) In regulation 3 (circumstances where a widow or widower is not entitled to periodic compensation) for “where there is no provision to pay a survivor’s pension under the admissible rules of the scheme.” there shall be substituted—

“where there is—

- (a) a valid nomination made by the member in accordance with either—
 - (i) the admissible rules of the scheme, or
 - (ii) regulation 4(2)(a),
- to pay a survivor’s pension to a relevant partner, or
- (b) no provision to pay a survivor’s pension under the admissible rules of the scheme.”.

(4) In regulation 4 (compensation for surviving dependants)—

- (a) in paragraph (2) at the beginning there shall be inserted “Subject to paragraph (2A),”; and

(b) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) No compensation may be paid under paragraph (2) where the member had a civil partner, or a spouse, at the date of his death, and there is no valid nomination in favour of the relevant partner.

(2B) Subject to paragraph (2C), in the case of a civil partner, the circumstances are—

- (a) where there is provision to pay a survivor’s pension to a civil partner or spouse of the member under the admissible rules of the scheme (whether discretionary or otherwise);
- (b) the surviving civil partner has provided the Board, or during the assessment period the trustees or managers of the eligible scheme, with a certified copy of the entry in the register relating to the civil partnership, and
- (c) the civil partnership was still in existence at the date of the member’s death.

(2C) No compensation may be paid under paragraph (2B) where there is a valid nomination made by the member in accordance with either—

- (a) the admissible rules of the scheme, or
- (b) regulation 4(2)(a),

to pay a survivor’s pension to a relevant partner.”.

(5) In regulation 5 (amount and duration of periodic compensation in the case of relevant partners) after “compensation is payable to a relevant partner” there shall be inserted “or civil partner.”.

(6) In regulation 6(2) and (3) (amount of periodic compensation that can be paid in the case of surviving dependants) for “surviving spouse or relevant partner” there shall be substituted “surviving spouse, relevant partner or civil partner”.

(7) In regulation 7 (period of payment) for “25”, in each place where it occurs, there shall be substituted “23”.

Amendment of the Pensions Regulator (Notifiable Events) Regulations

9. In regulation 2 of the Pensions Regulator (Notifiable Events) Regulations (Northern Ireland) 2005(a) (notifiable events)—

(a) in paragraph (1)—

- (i) in sub-paragraph (c) after “another scheme” there shall be inserted “, or where the trustees or managers are required to make or accept a transfer payment without such a decision having been taken, the making or acceptance of that payment,”; and
- (ii) in sub-paragraph (e) after “to a member” there shall be inserted “, or where the trustees or managers are required to grant benefits or a right to benefits without such a decision having been taken, the granting of those benefits or that right,”; and

(b) in paragraph (2)—

- (i) in sub-paragraph (b) at the end there shall be added “, or where the employer ceases to carry on business in the United Kingdom without such a decision having been taken, the cessation of business in the United Kingdom by that employer”, and
- (ii) in sub-paragraph (f) at the end there shall be added “, or where the controlling company relinquishes such control without a decision to do so having been taken, the relinquishing of control of the employer company by that controlling company”.

Revocation

10. Regulation 2(2) and (7) of the Pension Protection Fund and Pensions Regulator (Amendment) Regulations (Northern Ireland) 2005(b) is hereby revoked.

(a) S.R. 2005 No. 172

(b) S.R. 2005 No. 194

Sealed with the Official Seal of the Department for Social Development on 29th July 2005.

(L.S.)

John O'Neill

A senior officer for the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Pensions (Northern Ireland) Order 2005 (“the Order”), the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 (“the Multi-employer Regulations”), the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 (“the Entry Rules Regulations”), the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005 (“the Provision of Information Regulations”), the Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005 (“the Valuation Regulations”), the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005 (“the Review and Reconsideration Regulations”), the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (“the Compensation Regulations”) and the Pensions Regulator (Notifiable Events) Regulations (Northern Ireland) 2005 (“the Notifiable Events Regulations”).

Regulation 2 amends Article 7 of, and Schedule 2 to, the Order to provide that an application for an extension or further extension of the prescribed periods under Article 58(6) or 60(3) of the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”) is a reserved regulatory function and that the functions of the Regulator in that respect are exercisable by the Determinations Panel in the circumstances mentioned in Article 7(2) of the Order. It also amends Schedule 8 to the Order by adding a determination made by the Board of the Pension Protection Fund (“the Board”) under Article 125(2) of that Order to the reviewable matters prescribed in that Schedule.

Regulation 3 amends the Multi-employer Regulations. In particular—

paragraph (2) substitutes the definitions of “employer” in relation to an occupational pension scheme with no active members and a multi-employer scheme or a section of a multi-employer scheme and makes a minor consequential amendment;

paragraph (3) substitutes Part III, which modifies Part III of the Order, as it applies to a section of a segregated scheme with at least two employers in relation to that section. The substituted Part III broadens the circumstances in which an application can be made to the Board under Article 113(1) of the Order for it to assume responsibility for a section of a scheme to which Part III applies; and

paragraph (4) substitutes Part VI, which modifies Part III of the Order, as it applies to certain multi-employer schemes which are not divided into two or more sections in specified circumstances. The substituted Part VI broadens the circumstances in which an application can be made to the Board under Article 113(1) of the Order for it to assume responsibility for a scheme to which Part VI applies.

Regulations 4 to 6 amend respectively the Entry Rules Regulations, the Provision of Information Regulations and the Valuation Regulations by substituting new definitions of “employer” where certain occupational pension schemes have no active members and in relation to a multi-employer scheme or a multi-employer section of a segregated scheme. They also make minor consequential amendments.

Regulation 7 amends the Review and Reconsideration Regulations by substituting new definitions of “employer” where certain occupational pension schemes have no active members and in relation to a multi-employer scheme or a multi-employer section of a segregated scheme and makes minor consequential amendments. It also prescribes the interested person for the reviewable matters specified in paragraph 7A of Schedule 8 to the Order and corrects typographical errors.

Regulation 8 amends the Compensation Regulations—

by substituting new definitions of “employer” where certain occupational pension schemes have no active members and in relation to a multi-employer scheme or a multi-employer section of a segregated scheme and makes minor consequential amendments; and

to provide that the maximum age at which dependant's compensation can be paid is reduced from 25 to 23, although a person entitled to dependant's compensation prior to 6th April 2006 will continue to receive such compensation until the age of 25.

It also extends those Regulations to civil partners by providing that—

a civil partner will be entitled to receive a survivor's pension where the admissible rules of the scheme allow for such a payment to be made and for the amount of such compensation both where there are dependants of the civil partnership and where there are not;

where a member has nominated a relevant partner to receive a survivor's pension under the admissible rules of the scheme, then a surviving spouse or civil partner shall not be entitled to compensation; and

where a surviving spouse or civil partner is entitled to compensation and there is no nomination in place in favour of a relevant partner, then the relevant partner shall not be entitled to compensation.

Regulation 9 amends the Notifiable Events Regulations to expand certain events which involve the taking of a decision about a certain action to include a requirement to notify the Pensions Regulator when the action itself occurs in circumstances where a decision about that action was not required to be taken.

Regulation 10 makes a consequential revocation.

The Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005 No. 48 (C. 5)) provides for some of the enabling provisions under which these Regulations are made to be brought fully into operation as follows—

Article 280(1)(b) and (2)(b) on 8th March 2005; and

Articles 2(5)(a), 7(5)(a) and (7)(a), 64(2), 109(4)(a), 188(4)(a) and 189(2) and paragraph 23 of Schedule 6 on 6th April 2005.

As these Regulations are made before the end of the period of six months beginning with the coming into operation of the provisions of the Order by virtue of which they are made, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(c) of that Article.

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