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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 91**

**The Pension Protection Fund (Multi-employer Schemes)  
(Modification) Regulations (Northern Ireland) 2005**

**PART VI**

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

**Application and effect**

**61.**—(1) This paragraph applies to a multi-employer scheme which is not divided into two or more sections (“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 in circumstances where –

- (a) an insolvency event occurs 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
- (b) the trustees or managers of the scheme become aware that more than one of the employers in relation to the scheme are unlikely to continue as a going concern and meet the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112) at a time when those employers are the only employers in relation to the scheme.

(2) This paragraph applies to 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 in circumstances where –

- (a) an insolvency event occurs in relation to one or more of the employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers; or
- (b) one or more of the employers in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112) at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.

**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 so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

- (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 any 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 scheme) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

(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 paragraph (2) for “the employer” there were substituted “each employer”;

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

(d) in paragraph (4) for “the employer” there were substituted “an employer”;

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

(f) 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 so that it shall be read as if, in its application to a multi-employer scheme to which paragraph (1) or (2) of regulation 61 applies –

(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 non-segregated scheme at a time when the Board has previously received such a notice in relation to all the 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 notices received in relation to that employer.”;

(c) in paragraph (4) –

(i) in sub-paragraph (d) for “in relation to the employer” there were substituted “in relation to 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

(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 so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

- (a) in paragraph (1) 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”;
- (b) in paragraph (1)(a) and (b) for “the employer” there were substituted “an employer”;
- (c) in paragraph (4) –
  - (i) in sub-paragraph (d) for “in relation to the employer” there were substituted “in relation to 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
- (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 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 so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –
  - (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 (eligible schemes) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of 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 scheme”.

(2) Paragraph (1) shall not have effect in relation to Article 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 only have effect in relation to a non-segregated scheme in the circumstances described in regulation 61(1) and (2) and, for those purposes, shall be modified so that it shall be read as if –

- (a) in its application to a non-segregated scheme to which paragraph (1) of regulation 61 applies –
  - (i) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where a qualifying insolvency event has occurred in relation to more than one employer in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when those employers are the only employers in relation to the scheme.”, and
  - (ii) 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 simultaneously in relation to more than one employer at a time when those employers are the only employers in relation to the scheme,
- (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.”; and

(b) in its application to a non-segregated scheme to which paragraph (2) of regulation 61 applies –

(i) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where a qualifying insolvency event has occurred in relation to one or more of the employers in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”; and

(ii) 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 one or more of the employers at a time when that or those employers are the only employers in relation to the scheme, or
  - (ii) in relation to an employer at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers,
- (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 so that it shall be read as if, in its application to a non-segregated scheme to which –

(a) paragraph (1) of regulation 61 applies, for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where, in relation to a non-segregated scheme, the trustees or managers of the scheme –

- (a) make an application under paragraph (1) of Article 113 (“an Article 113 application”) in relation to more than one employer in relation to the scheme at a time when those employers are the only employers in relation to the scheme, or
  - (b) receive a notification from the Board under paragraph (5)(a) of that Article (“an Article 113 notification”) in relation to more than one employer in relation to the scheme at a time when those employers are the only employers in relation to the scheme.”;
- (b) paragraph (2) of regulation 61 applies, for paragraph (1) there were substituted the following paragraph –
- “(1) This Article applies where, in relation to a non-segregated scheme, the trustees or managers of the scheme –
- (a) make an application under paragraph (1) of Article 113 (“an Article 113 application”) in relation to one or more employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, or
  - (b) receive a notification from the Board under paragraph (5)(a) of that Article (“an Article 113 notification”) in relation to one or more employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”.

### **Applications and notifications**

**65.**—(1) Article 113 (applications and notifications for the purposes of Article 112) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which –

- (a) paragraph (1) of regulation 61 applies –
  - (i) 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 become aware that –

    - (a) more than one of the employers in relation to the scheme is unlikely to continue as a going concern at a time when those employers are the only employers in relation to the scheme, and
    - (b) the prescribed requirements are met in relation to those employers,

they must make an application to the Board for it to assume responsibility for the scheme under Article 112.”;
  - (ii) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a non-segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to all the employers in relation to the scheme.”; and
  - (iii) 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.”; and
- (b) paragraph (2) of regulation 61 applies –
  - (i) 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 become aware that –

(a) one or more of the employers in relation to the scheme is unlikely to continue as a going concern at a time when an insolvency event has also occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to act in relation to each of those employers, and

(b) the prescribed requirements are met in relation to those employers,

they must make an application to the Board for it to assume responsibility for the scheme under Article 112.”;

(ii) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a non-segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to all the employers in relation to the scheme.”;

(iii) in paragraph (4)(a) and (b) for “the employer” there were substituted “an employer”, and

(iv) 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 so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

(a) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of 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

(b) 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 so that it shall be read as if, in its application to a non-segregated scheme to which –

(a) paragraph (1) of regulation 61 applies –

(i) in paragraph (2) –

(aa) 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”;

(bb) for “the employer” there were substituted “an employer”; and

(cc) after “an assessment period” there were inserted “in relation to the scheme”, and

- (ii) 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) or a notification is received under Article 113(5)(a) in respect of more than one employer in relation to the scheme at a time when those employers are the only employers in relation to the scheme, an assessment period in relation to the scheme”; and
- (b) paragraph (2) of regulation 61 applies –
  - (i) in paragraph (2) –
    - (aa) 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”;
    - (bb) for “the employer” there were substituted “an employer”; and
    - (cc) after “an assessment period” there were inserted “in relation to the scheme”, and
  - (ii) 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) or a notification is received under Article 113(5)(a) in respect of one or more of the employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, an assessment period”.

### **Restrictions on winding up, discharge of liabilities etc. and power to validate contraventions of Article 119**

67.—(1) Article 119 (restrictions on winding up, discharge of liabilities etc.) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

“(2A) An employer in relation to a non-segregated scheme must not cease to participate in the scheme during an assessment period.”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if 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”.

### **Valuation of assets**

68.—(1) Article 128 (approval of valuation) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if 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”.

(2) Article 129 (binding valuations) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if 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”.

### **Refusal to assume responsibility**

**69.**—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) 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
- (b) 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”.

(2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) 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
- (b) 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”.

(3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) in paragraph (5)(c) for “the employer” there were substituted “any employer”; and
- (b) in paragraph (7)(c) for “the employer” there were substituted “any employer”.

### **Transfer notices and the pension compensation provisions**

**70.**—(1) Article 144 (transfer notice) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of 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 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 issued.”.

(2) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of



regulation 61 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a non-segregated multi-employer scheme”.

(3) In Schedule 6 to the Order (pension compensation provisions) paragraph 1 shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if for “an eligible scheme” there were substituted “a non-segregated multi-employer scheme which is, for the purposes of Part III, an eligible scheme”.