

2014 No. 195

PENSIONS

**The Pension Protection Fund (Entry Rules) (Amendment)
Regulations (Northern Ireland) 2014**

Made - - - - *30th June 2014*

Coming into operation - *21st July 2014*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 105(5) and (9)(b) and 287(3) of the Pensions (Northern Ireland) Order 2005(a).

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Pension Protection Fund (Entry Rules) (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on 21st July 2014.

(2) These Regulations and the amendments they make cease to have effect on 20th July 2017.

Amendment of the Pension Protection Fund (Entry Rules) Regulations

2.—(1) The Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005(b) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 5 (prescribed insolvency events) insert—

“European insolvency event

5A.—(1) An insolvency event occurs in relation to an employer on the fifth anniversary of the date that the insolvency proceedings mentioned in paragraph (2)(a) were commenced.

(2) The insolvency proceedings are proceedings which—

(a) on 20th July 2014—

(i) relate to an employer which has the centre of its main interests in the territory of an EEA state(c) other than the United Kingdom;

(ii) have been commenced in that EEA state, and

(iii) have not come to an end;

(b) relate to an employer in relation to which a winding up order as mentioned in Article 105(3)(g) of the Order (insolvency events) was granted and which was later

(a) S.I. 2005/255 (N.I. 1)

(b) S.R. 2005 No. 126; relevant amending provisions are S.R. 2005 No. 194, S.R. 2006 No. 61, S.R. 2009 No. 78, S.I. 2009/317 and S.I. 2010/1189

(c) The definition of “EEA state” was inserted by regulation 2(2)(a) of S.R. 2009 No. 78

set aside by the court on the basis that the court did not have jurisdiction to grant the order because the employer did not have an establishment in the United Kingdom, and

- (c) relate to an employer in relation to an occupational pension scheme in respect of which an assessment period would have begun as a result of the grant of the winding up order mentioned in sub-paragraph (b) had that order not been set aside.

(3) The insolvency practitioner is the liquidator in relation to the insolvency proceedings mentioned in paragraph (2)(a)(i).

(4) Regulation 9(a) applies in relation to an insolvency event mentioned in paragraph (1) as if “company” included an employer mentioned in paragraph (2)(a) which is not a partnership or an individual.

(5) In this regulation—

“establishment”, “insolvency proceedings” and “liquidator” each has the meaning given by Article 2 of Council Regulation (EC) No. 1346/2000(b) on insolvency proceedings; “centre of its main interests” is to be construed in accordance with Article 3 of that Regulation.”.

(3) In regulation 6(c) (circumstances in which insolvency proceedings in relation to the employer are stayed or come to an end)—

- (a) in paragraph (1) for “The prescribed” substitute “Subject to paragraph (1A), the prescribed”;

- (b) after paragraph (1) insert—

“(1A) This regulation does not apply in relation to an insolvency event under regulation 5A.”.

Sealed with the Official Seal of the Department for Social Development on 30th June 2014

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) Regulation 9 was amended by regulation 3(3) of S.R. 2005 No. 194

(b) O.J. No. L160, 30.6.00, p.5

(c) Regulation 6 was amended by paragraph 26 of the Schedule to S.R. 2006 No. 61, Article 9 of S.I. 2009/317 and Article 4(3) of S.I. 2010/1189

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 (“the 2005 Regulations”).

Regulation 2 inserts regulation 5A into the 2005 Regulations so that certain employers which have the centre of their main interests in a member State of the European Economic Area, other than the United Kingdom, can, in certain limited circumstances, undergo an insolvency event for the purposes of Part 3 of the Pensions (Northern Ireland) Order 2005 (“the Order”). Regulation 2 also makes a consequential amendment to regulation 6 of the 2005 Regulations so that it does not apply in relation to an insolvency event under regulation 5A.

These Regulations cease to have effect on 21st July 2017.

The Pensions (2005 Order) (Commencement No. 15) Order (Northern Ireland) 2014 (S.R. 2014 No. 183 (C. 12)) provides for the coming into operation of Article 105(9)(b) of the Order, one of the enabling provisions under which these Regulations are made, on 25th June 2014.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

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