
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 2

INFORMATION RELATING TO EMPLOYER'S INSOLVENCY ETC.

Insolvency events

Duty to notify insolvency events in respect of employers

104.—(1) This Article applies where, in the case of an occupational pension scheme, an insolvency event occurs in relation to the employer.

(2) The insolvency practitioner in relation to the employer must give a notice to that effect within the notification period to—

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

(3) For the purposes of paragraph (2) the “notification period” is the prescribed period beginning with the later of—

- (a) the insolvency date, and
- (b) the date the insolvency practitioner becomes aware of the existence of the scheme.

(4) A notice under this Article must be in such form and contain such information as may be prescribed.

Insolvency event, insolvency date and insolvency practitioner

105.—(1) In this Part each of the following expressions has the meaning given to it by this Article—

- “insolvency event”,
- “insolvency date”,
- “insolvency practitioner”.

(2) An insolvency event occurs in relation to an individual where—

- (a) he is adjudged bankrupt;
- (b) the nominee in relation to a proposal for a voluntary arrangement under Chapter 2 of Part VIII of the Insolvency Order submits a report to the Court under Article 230(1) or 230A(3)

- of that Order which states that in his opinion a meeting of the individual's creditors should be summoned to consider the debtor's proposal;
- (c) a deed of arrangement made by, for, or in respect of the affairs of the individual is registered under Chapter 1 of Part VIII of that Order;
 - (d) he executes a trust deed for his creditors or enters into a composition contract;
 - (e) he has died and an insolvency administration order is made in respect of his estate in accordance with an order under Article 365 of that Order.
- (3) An insolvency event occurs in relation to a company where—
- (a) the nominee in relation to a proposal for a voluntary arrangement under Part II of the Insolvency Order submits a report to the Court under Article 15 of that Order (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the company and its creditors should be summoned to consider the proposal;
 - (b) the directors of the company file with the Court documents and statements in accordance with paragraph 18(1) of Schedule A1 to that Order (moratorium where directors propose voluntary arrangement);
 - (c) an administrative receiver within the meaning of Article 5 of that Order is appointed in relation to the company;
 - (d) the company enters administration within the meaning of paragraph 2(2)(b) of Schedule B1 to that Order;
 - (e) a resolution is passed for a voluntary winding up of the company without a declaration of solvency under Article 75 of that Order;
 - (f) a meeting of creditors is held in relation to the company under Article 81 of that Order (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
 - (g) an order for the winding up of the company is made by the Court under Part V or VI of that Order.
- (4) An insolvency event occurs in relation to a partnership where—
- (a) an order for the winding up of the partnership is made by the Court under any provision of the Insolvency Order (as applied by an order under Article 364 of that Order (insolvent partnerships));
 - (b) the nominee in relation to a proposal for a voluntary arrangement under Part II of that Order (as applied by an order under Article 364 of that Order) submits a report to the Court under Article 15 of that Order (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the members of the partnership and the partnership's creditors should be summoned to consider the proposal;
 - (c) the members of the partnership file with the Court documents and statements in accordance with paragraph 18(1) of Schedule A1 to that Order (moratorium where directors propose voluntary arrangement) (as applied by an order under Article 364 of that Order);
 - (d) an administration order under Part III of that Order (as applied by Article 364 of that Order) is made in relation to the partnership.
- (5) An insolvency event also occurs in relation to a person where an event occurs which is a prescribed event in relation to such a person.
- (6) Except as provided by paragraphs (2) to (5), for the purposes of this Part an event is not to be regarded as an insolvency event in relation to a person.
- (7) The Department may by order amend paragraph (4)(d) to make provision consequential upon any order under Article 364 of the Insolvency Order (insolvent partnerships) applying the provisions

of Part III of that Order (administration) as amended by the Insolvency (Northern Ireland) Order 2005.

(8) “Insolvency date”, in relation to an insolvency event, means the date on which the event occurs.

(9) “Insolvency practitioner”, in relation to a person, means—

(a) a person acting as an insolvency practitioner, in relation to that person, in accordance with Article 3 of the Insolvency Order,

(b) in such circumstances as may be prescribed, a person of a prescribed description.

(10) In this Article—

“company” means a company within the meaning given by Article 3(1) of the Companies Order or a company which may be wound up under Part VI of the Insolvency Order (unregistered companies);

“person acting as an insolvency practitioner”, in relation to a person, includes the official receiver acting as receiver or manager of any property of that person.

(11) In applying Article 3 of the Insolvency Order under paragraph (9), Article 3(5) of that Order (which includes provision that nothing in the Article applies to anything done by the official receiver) must be ignored.

(12) In relation to any time before the coming into operation of Article 3 of the Insolvency (Northern Ireland) Order 2005, paragraph (3) shall have effect as if for sub-paragraph (d) there were substituted—

“(d) an administration order is made by the Court under Article 21 of that Order;”.