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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

**The Pensions (Northern Ireland) Order 2005**

**PART III**

**THE BOARD OF THE PENSION PROTECTION FUND**

**CHAPTER 3**

**PENSION PROTECTION**

*Valuation of assets and liabilities*

**Board's obligation to obtain valuation of assets and protected liabilities**

**127.**—(1) This Article applies in a case within paragraph (1) of Article 111 or 112.

(2) For the purposes of determining whether the condition in paragraph (2)(a) of the Article in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the scheme as at the relevant time.

(3) For those purposes, regulations may provide that any of the following are to be regarded as assets or protected liabilities of the scheme at the relevant time if prescribed requirements are met—

- (a) a debt due to the trustees or managers of the scheme by virtue of a contribution notice issued under Article 34, 43 or 51 during the pre-approval period;
- (b) an obligation arising under financial support for the scheme (within the meaning of Article 41) put in place during the pre-approval period in accordance with a financial support direction issued under Article 39;
- (c) an obligation imposed by a restoration order under Article 48 during the pre-approval period in respect of a transaction involving assets of the scheme.

(4) For the purposes of this Article, regulations may prescribe how—

- (a) the assets and the protected liabilities of eligible schemes, and
- (b) their amount or value,

are to be determined, calculated and verified.

(5) Regulations under paragraph (4) may provide, in particular, that when calculating the amount or value of assets or protected liabilities of an eligible scheme at the relevant time which consist of any of the following—

- (a) a debt (including any contingent debt) due to the trustees or managers of the scheme from the employer under Article 75 of the 1995 Order (deficiencies in the scheme assets),
- (b) a debt due to the trustees or managers of the scheme by virtue of a contribution notice issued under Article 34, 43 or 51,
- (c) an obligation arising under financial support for the scheme (within the meaning of Article 41) put in place in accordance with a financial support direction issued under Article 39, or

(d) an obligation imposed by a restoration order made under Article 48 in respect of a transaction involving assets of the scheme,  
account must be taken in the prescribed manner of prescribed events which occur during the pre-approval period.

(6) Subject to any provision made under paragraph (4), the matters mentioned in sub-paragraphs (a) and (b) of that paragraph are to be determined, calculated and verified in accordance with guidance issued by the Board.

(7) In calculating the amount of any liabilities for the purposes of this Article, a provision of the scheme rules which limits the amount of the scheme's liabilities by reference to the value of its assets is to be disregarded.

(8) The duty imposed by paragraph (2) ceases to apply if and when the Board ceases to be involved with the scheme.

(9) Nothing in paragraph (2) requires the actuarial valuation to be obtained during any period when the Board considers that an event may occur which, by virtue of regulations under paragraph (3) or (4), may affect the value of the assets or the amount of the protected liabilities of the scheme for the purposes of the valuation.

(10) In a case where there are one or more reviewable ill health pensions (within the meaning of Article 124), nothing in paragraph (2) requires the actuarial valuation to be obtained during the period mentioned in Article 125(5)(b) (period during which Board may exercise its power to make a decision following a review) relating to any such pension.

(11) For the purposes of this Article—

(a) “actuarial valuation”, in relation to the scheme, means a written valuation of the assets and protected liabilities of the scheme which—

(i) is in the prescribed form and contains the prescribed information, and

(ii) is prepared and signed by—

(a) a person with prescribed qualifications or experience, or

(b) a person approved by the Department,

(b) “the pre-approval period”, in relation to the scheme, means the period which—

(i) begins immediately after the relevant time, and

(ii) ends immediately before the time the Board first approves a valuation of the scheme under Article 128 after the relevant time,

(c) “the relevant time”—

(i) in a case within paragraph (1) of Article 111, has the meaning given in paragraph (4) (b) of that Article, and

(ii) in a case within paragraph (1) of Article 112, has the meaning given in paragraph (3) (b) of that Article, and

(d) references to “assets” do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules.

### **Approval of valuation**

**128.**—(1) This Article applies where the Board obtains a valuation in respect of a scheme under Article 127.

(2) Where the Board is satisfied that the valuation has been prepared in accordance with that Article, it must—

(a) approve the valuation, and

- (b) give a copy of the valuation to—
  - (i) the Regulator,
  - (ii) the trustees or managers of the scheme, and
  - (iii) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (3) Where the Board is not so satisfied, it must obtain another valuation under that Article.

### **Binding valuations**

**129.**—(1) For the purposes of this Chapter a valuation obtained under Article 127 is not binding until—

- (a) it is approved under Article 128,
- (b) the period within which the approval may be reviewed by virtue of Chapter 6 has expired, and
- (c) if the approval is so reviewed—
  - (i) the review and any reconsideration,
  - (ii) any reference to the PPF Ombudsman in respect of the approval, and
  - (iii) any appeal against his determination or directions,has been finally disposed of.

(2) Subject to Article 156(3) and (4) (treatment of fraud compensation payments), for the purposes of determining whether or not the condition in Article 111(2)(a) or, as the case may be, 112(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding valuation is conclusive.

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

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and
- (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(4) A notice under paragraph (3) must be in the prescribed form and contain the prescribed information.