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STATUTORY INSTRUMENTS

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**2005 No. 255**

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

**PART III**

**THE BOARD OF THE PENSION PROTECTION FUND**

**CHAPTER 3**

**PENSION PROTECTION**

*Provisions applying to closed schemes*

**Treatment of closed schemes**

**139.**—(1 <sup>F1</sup> In this Article “closed scheme” means an eligible scheme which is authorised under Article 137 to continue as a closed scheme.

(2 <sup>F1</sup> The provisions mentioned in paragraph (3) apply in relation to a closed scheme at any time when the trustees or managers of the scheme are required to wind up or continue winding up the scheme under Article 138 as if that time fell within an assessment period in relation to the scheme.

(3) The provisions are—

- (a) Article 36(5) and (6) (Board to act as creditor for debt due by virtue of a contribution notice under Article 34);
- (b) Article 45(5) and (6) (Board to act as creditor for debt due by virtue of a contribution notice under Article 43);
- (c) Article 50(5) and (6) (Board to act as creditor for debt due by virtue of a restoration order under Article 48);
- (d) Article 52(5) and (6) (Board to act as creditor for debt due by virtue of a contribution notice under Article 51);
- (e) Article 117 (admission of new members, payment of contributions etc.);
- (f) Article 118 (directions);
- (g) Article 121 (Board to act as creditor of the employer).

(4) Regulations may require the trustees or managers of a closed scheme in relation to which the provisions mentioned in paragraph (3) apply to comply with such requirements as may be prescribed when providing for the discharge of any liability to, or in respect of, a member of the scheme for pensions or other benefits.

**F1** mod. by SR 2005/91

**Commencement Information**

**II** [Art. 139](#) wholly in operation at 6.4.2007; [art. 139](#) not in operation at date of making see [art. 1\(2\)](#); [Art. 139\(1\)\(4\)](#) in operation for certain purposes at 1.11.2006 and wholly in operation at 6.4.2007 by

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**Changes to legislation:** The Pensions (Northern Ireland) Order 2005, Cross Heading: Provisions applying to closed schemes is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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S.R. 2006/352, art. 2(3), Sch. Pt. 1; art. 139 in operation at 6.4.2007 in so far as it is not already in operation by S.R. 2006/352, art. 2(5), Sch. Pt. 2

## Valuations of closed schemes

**140.**—(1 <sup>F2</sup> <sup>F3</sup>Regulations may make provision requiring the trustees or managers of closed schemes to obtain actuarial valuations of the scheme at such intervals as may be prescribed for the purposes of enabling them to determine—

- (a) the benefits payable under the scheme rules;
- (b) whether to make an application under Article 141.

(2) Regulations under this Article may prescribe how—

- (a <sup>F3</sup> the assets, the full scheme liabilities and the protected liabilities in relation to closed schemes, and
- (b) their amount or value,

are to be determined, calculated and verified.

(3) Subject to any provision made under paragraph (2), those matters are to be determined, calculated and verified in accordance with guidance issued by the Board.

(4) In calculating the amount of any liabilities for the purposes of a valuation required by virtue 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.

(5 <sup>F2</sup> <sup>F3</sup>Nothing in regulations under this Article may require the trustees or managers of a closed scheme to obtain an actuarial valuation of the scheme until—

- (a) the period within which the issue of the determination notice, under Article 137(6), in respect of the Board's determination to authorise the scheme to continue as a closed scheme, may be reviewed by virtue of Chapter 6 has expired, and
- (b) if the issue of the notice is so reviewed—
  - (i) the review and any reconsideration,
  - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
  - (iii) any appeal against his determination or directions,
 has been finally disposed of and the notice has not been revoked, varied or substituted.

(6 <sup>F2</sup> In this Article, in relation to a scheme—

“actuarial valuation” means a written valuation of—

- (a) the scheme's assets,
  - (b) the full scheme liabilities, and
  - (c) the protected liabilities in relation to the scheme,
- prepared and signed by the actuary;

“the actuary” means—

- (a) the actuary appointed under Article 47(1)(b) of the 1995 Order (professional advisers) in relation to the scheme, or
- (b) if no such actuary has been appointed—
  - (i) a person with prescribed qualifications or experience, or
  - (ii) a person approved by the Department;

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“assets” do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules;

“closed scheme” has the same meaning as in Article 139;

“full scheme liabilities” means—

- (a) the liabilities under the scheme rules to or in respect of members of the scheme,
- (b) other liabilities of the scheme, and
- (c) the estimated cost of winding up the scheme;

“liabilities” do not include liabilities in respect of money purchase benefits under the scheme rules.

**F2** mod. by SR 2005/55

**F3** mod. by SR 2005/91

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**Commencement Information**

**I2** [Art. 140](#) wholly in operation at 6.4.2007; [art. 140](#) not in operation at date of making see [art. 1\(2\)](#); [Art. 140\(1\)\(2\)\(5\)\(6\)](#) in operation for certain purposes at 1.11.2006 and wholly in operation at 6.4.2007 by [S.R. 2006/352](#), [art. 2\(3\)](#), [Sch. Pt. 1](#); [art. 140](#) in operation at 6.4.2007 in so far as it is not already in operation by [S.R. 2006/352](#), [art. 2\(5\)](#), [Sch. Pt. 2](#)

**Changes to legislation:**

The Pensions (Northern Ireland) Order 2005, Cross Heading: Provisions applying to closed schemes is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 6 para. 21(2)(c)-(cc) substituted for (b)(c) by [2008 c. 13 \(N.I.\) Sch. 6 para. 11](#)
- art. 2(4)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 21\(3\)\(b\)](#)
- art. 19(1A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(3\)](#)
- art. 19(10A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(5\)](#)
- art. 34(1)-(1B) substituted for art. 34(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 25](#)
- art. 34(7)(da) inserted by [2021 c. 1 Sch. 8 para. 3\(2\)](#)
- art. 39(1)-(1B) substituted for art. 39(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(2\)](#)
- art. 48(1)-(1B) substituted for art. 48(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 27](#)
- art. 75(1)(a)(iib) inserted by [2021 c. 1 Sch. 8 para. 8\(2\)](#)
- art. 110(1)-(1B) substituted for art. 110(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 29](#)
- art. 191(5) added by [2008 c. 13 \(N.I.\) Sch. 9 para. 6](#)
- art. 267(4)(f) and word inserted by [2021 c. 1 Sch. 6 para. 20\(b\)](#)