STATUTORY RULES OF NORTHERN IRELAND

2012 No. 270

PENSIONS

The Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2012

Made - - - - *2nd July 2012*

Coming into operation *23rd July 2012*

Approved by resolution of the Assembly on 10th December 2012

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 127(3) to (5), 127A(5), 135(4), 140(1), 168(4)(a), 185(1), 189(1), (2) and (5)(a), 192(1) and (2)(b), 280(1)(b) and (2)(b) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(**1**).

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and shall come into operation on 23rd July 2012.

Amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations

2.—(1) The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005(**2**) are amended in accordance with paragraphs (2) to (20).

(2) In regulation 6(1) (protected liabilities and assessment periods) in substituted Article 115(1)(b) of the Pensions (Northern Ireland) Order 2005 (protected liabilities) for "as calculated in the Board's valuation of the relevant section of the scheme under Article 127" substitute "as determined by the Board or as calculated in the Board's valuation of the relevant section of the scheme under Article 127".

(3) In regulation 8 (valuation of assets)—

(a) for paragraph (1) substitute—

"(1) Article 127 (Board's obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(**1**) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes, hybrid schemes and multi-employer schemes by, respectively, S.R. 2005 Nos. 55 (as amended by S.R. 2010 No. 32), 84 and 91 (as amended by S.R. 2005 Nos. 194 and 357, S.R. 2008 No. 132, S.R. 2010 No. 111 and S.R. 2012 No. 1); Article 127 is amended by paragraph 5 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)) and is modified by S.R. 2005 No. 137; Article 127A is inserted by paragraph 6 of Schedule 4 to that Act; Article 135 is amended by paragraphs 9 and 14 of Schedule 4 to that Act

(**2**) S.R. 2005 No. 91; relevant amending Regulations are S.R. 2005 Nos. 194 and 357

(a) in paragraph (2)(b) for "the scheme" there were substituted "the relevant section of the scheme"; and

(b) after paragraph (2A) there were inserted the following paragraph—

"(2B) Where the trustees or managers of a segregated scheme receive a copy of a notice under paragraph (2A), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".";

(b) after paragraph (1) insert—

"(1A) Article 127A (determinations under Article 127) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if—

(a) after paragraph (1) there were inserted the following paragraph—

"(1A) Where the trustees or managers of a segregated scheme receive a copy of a determination under paragraph (1), they must send a copy of that determination as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme."; and

(b) in paragraph (3) for "a scheme" there were substituted "the relevant section of a scheme".".

(4) In regulation 10(2)(a)(**3**) (reconsideration and duty to assume responsibility for a scheme following reconsideration) in substituted Article 136(2)(b) of the Pensions (Northern Ireland) Order 2005 (duty to assume responsibility following reconsideration) for "as calculated in the valuation of the relevant section of the scheme" substitute "as determined by the Board or calculated in the valuation of the relevant section of the scheme".

(5) In regulation 11 (closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities) after paragraph (4) add—

"(5) Article 142(**4**) (duty to assume responsibility for closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (3A) there were inserted the following paragraph—

"(3B) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (3A), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".".

(6) In regulation 23(**5**) (valuation of assets)—

(a) for paragraph (1) substitute—

"(1) Article 127 (Board's obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) in paragraph (2)(b) for "the scheme" there were substituted "the relevant section of the scheme"; and

(b) after paragraph (2A) there were inserted the following paragraph—

"(2B) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice under paragraph (2A), they

(**3**) Regulation 10(2) was amended by S.R. 2005 No. 194
(**4**) Article 142 is amended by paragraph 11 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 and is modified by S.R. 2005 No. 137
(**5**) Part III (regulations 14 to 27) was substituted by regulation 3(3) of S.R. 2005 No. 357

must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).".";

(b) after paragraph (1) insert—

"(1A) Article 127A (determinations under Article 127) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if—

(a) after paragraph (1) there were inserted the following paragraph—

"(1A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination under paragraph (1), they must send a copy of that determination as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different)."; and

(b) in paragraph (3) for "a scheme" there were substituted "the relevant section of a scheme".".

(7) In regulation 25 (reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities) after paragraph (6) add—

"(7) Article 142 (duty to assume responsibility for closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if after paragraph (3A) there were inserted the following paragraph—

"(3B) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3A), they must send a copy of that notice as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).".".

(8) In regulation 28(4) (application and effect)—

(a) at the end of sub-paragraph (a) omit "and";

(b) after sub-paragraph (b) add—

"and

(c) Part III of the Order shall be read as if Article 127A were omitted.".

(9) After regulation 37 (Board to act as creditor of the employer) insert—

"**Ill health pensions**

37A.—(1) Article 125(**6**) (effect of a review) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if—

(a) in paragraph (4) "a determination under Article 127(2)(a) or" were omitted; and

(b) in paragraph (5)(a) "makes a determination under Article 127(2)(a) or" were omitted.

(2) Article 126(1)(**7**) (Articles 124 and 125: interpretation) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in the definition of "scheme valuation" for "127(2)(b)" there were substituted "127".".

(10) In regulation 38 (valuation of assets)—

(a) in paragraph (1)—

(i) for sub-paragraph (b) substitute—

(**6**) Article 125 is amended by paragraph 3 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(**7**) Article 126 is amended by paragraph 4 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

"(b) for paragraph (2) there were substituted the following paragraph—

"(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 section as a whole and of the segregated part as at the relevant time.";";

(ii) after sub-paragraph (b) insert—

"(ba) paragraph (2A) were omitted;

(bb) in paragraph (4) for "a determination made under paragraph (2)(a) or an actuarial valuation obtained under paragraph (2)(b)" there were substituted "this Article";

(bc) paragraph (5C) were omitted;

(bd) in paragraph (6) "for the purposes of an actuarial valuation obtained under paragraph (2)(b)" were omitted;";

(iii) at the end of sub-paragraph (c) omit "and";

(iv) after sub-paragraph (c) insert—

"(ca) in paragraph (9)—

(i) for "requires a determination to be made, or an" there were substituted "requires the", and

(ii) "the determination or" were omitted;

(cb) in paragraph (10) for "requires a determination to be made, or an" there were substituted "requires the"; and";

(v) in sub-paragraph (d) after head (i) insert—

"(ia) in sub-paragraph (b)(ii) "makes a determination under paragraph (2)(a) or" were omitted;";

(b) in paragraph (2) for sub-paragraph (a) substitute—

"(a) in paragraph (1) for "obtains a valuation in respect of a scheme under Article 127(2)(b)" there were substituted "obtains a valuation or a further valuation in respect of the section as a whole and of the segregated part under Article 127"; and";

(c) in paragraph (3) for sub-paragraph (a) substitute—

"(a) in paragraph (1) for "a valuation obtained under Article 127(2)(b) is not binding" there were substituted "a valuation or a further valuation obtained under Article 127 of the section as a whole and of the segregated part is not binding";".

(11) In regulation 40 (reconsideration) for paragraph (1) substitute—

"(1) Article 135 (application for reconsideration) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if—

(a) in paragraphs (2)(b) and (3)(b) for "the determination made by the Board or valuation obtained by the Board in respect of the scheme under Article 127(2)" there were substituted "the valuation obtained by the Board under Article 127 in respect of the segregated part";

(b) in paragraph (6)(a)(ii) and (b)(ii) "determination or" were omitted;

(c) in paragraph (8) in the definition of "protected benefits quotation" for the words from "in relation to a scheme" to "the reconsideration time" there were substituted —

"in relation to a segregated part of a multi-employer section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the segregated part from the trustees or managers of the scheme, which would provide in respect of each member of the segregated part from the reconsideration time"; and

(d) in paragraph (10) for "under Article 127(2)(b)" there were substituted "under that Article".".

(12) In regulation 41 (closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets(**8**))—

(a) in paragraph (2) after sub-paragraph (a) insert—

"(aa) in paragraph (5)(b) "determination made by the Board or" were omitted;";

(b) after paragraph (5) add—

"(6) Article 142(**9**) (duty to assume responsibility for closed schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if—

(a) for paragraph (3) there were substituted the following paragraph—

"(3) For the purposes of determining whether the condition in paragraph (1) is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation (within the meaning of Article 127) of the segregated part as at the relevant time.";

(b) paragraph (3A) were omitted;

(c) in paragraph (5)—

(i) for "a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3)(b)" there were substituted "a valuation obtained under paragraph (3);

(ii) for "a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b)" there were substituted "a valuation obtained under Article 127", and

(iii) sub-paragraph (aa) were omitted; and

(d) in paragraph (6)—

(i) ", 127A" were omitted, and

(ii) sub-paragraph (aa) were omitted.".

(13) In regulation 42(1) (transfer notices and assumption of responsibility for a scheme) after sub-paragraph (b) insert—

"(ba) in paragraph (3) for "determination made or valuation obtained under Article 127(2)" there were substituted "valuation obtained under Article 127";

(bb) in paragraph (4) "determination made or" were omitted;".

(14) In regulation 45(4) (application and effect)—

(a) at the end of sub-paragraph (a) omit "and";

(b) after sub-paragraph (b) add—

"and

(**8**) The heading to regulation 41 was substituted by regulation 2(5) of S.R. 2005 No. 194

(**9**) Article 142 is amended by paragraph 11 of Schedule 4 to the Pensions Act (Northern Ireland) 2012