STATUTORY RULES OF NORTHERN IRELAND

2009 No. 78

PENSIONS

The Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2009

Made - - - -	*4th March 2009*
Coming into operation	*1st April 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 113(1)(b) and (1A)(b), 114(5)(b), 122(12), 127(4) and (5), 135(9)(b), 140(2), 147(3), 150(5) and (6), 162(3) and 287(2) and (3) of, and paragraph 33 of Schedule 6 to, 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) 2009 and shall come into operation on 1st April 2009.

Amendment of the Pension Protection Fund (Entry Rules) Regulations

2.—(1) The Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005(**2**) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the assessment date"(**3**) insert—

> ""EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;
>
> "EEA credit institution" means a credit institution, authorised under Directive 2006/48/EC of the European Parliament and of the Council dated 14th June 2006

(**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, 84 and 91 (as amended by S.R. 2005 Nos. 194 and 357); Article 113(1A) was inserted by the modifications in Parts III and VI of S.R. 2005 No. 91 as substituted by regulation 3(3) and (4) of S.R. 2005 No. 357

(**2**) S.R. 2005 No. 126; relevant amending Regulations are S.R. 2005 Nos. 357 and 364 and S.R. 2006 No. 155

(**3**) The definition of "the assessment date" was inserted by regulation 4(a) of S.R. 2005 No. 357

relating to the taking up and pursuit of the business of credit institutions(**4**), which has its relevant office in an EEA state other than the United Kingdom;

"EEA insurer" means an undertaking, other than a UK insurer, pursuing the activity of direct insurance (within the meaning of Article 2 of the life insurance directive or Article 1 of the first non-life insurance directive) which has received authorisation under Article 4 of the life insurance directive or Article 6 of the first non-life insurance directive from its home state regulator;

"EEA regulator" means a competent authority (within the meaning of Article 1(1) of the life insurance directive or Article 1(k) of the third non-life insurance directive) of an EEA state;

"EEA state", in relation to any time, means—

(a) a state which at that time is a member State, or

(b) any other state which at that time is a party to the EEA agreement;

"the first non-life insurance directive" means Council Directive 73/239/EEC of 24th July 1973 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance(**5**);

"home state regulator" means the relevant EEA regulator in the EEA state where the EEA insurer's head office is located;";

(b) after the definition of "the Insolvency Rules" insert—

""the life insurance directive" means Directive 2002/83/EC of the European Parliament and of the Council dated 5th November 2002 concerning life assurance(**6**);";

(c) after the definition of "public body" insert—

""relevant office" means—

(a) in relation to a body corporate, its registered office or, if it has no registered office, its head office, and

(b) in relation to a person other than a body corporate, the person's head office;";

(d) after the definition of "tax registered scheme"(**7**) insert—

""the third non-life insurance directive" means Council Directive 92/49/EEC of 18th June 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC(**8**);

"UK insurer" means a person who has permission under Part IV of the FSMA 2000 (permission to carry on regulated activities) to effect or carry out contracts of insurance, but does not include a person who, in accordance with that permission, carries on that activity exclusively in relation to reinsurance contracts.".

(3) In regulation 7(**9**)(applications and notifications to the Board)—

(a) at the end of paragraph (b) omit "or";

(**4**) OJ No. L 177, 30.6.06, p.1
(**5**) OJ No. L 228, 16.8.73, p.3
(**6**) OJ No. L 345, 19.12.02, p.1
(**7**) The definition of "tax registered scheme" was substituted for the definition of "tax approved scheme" by regulation 21(2) of S.R. 2006 No. 155
(**8**) OJ No. L 228, 11.8.92, p.1
(**9**) Regulation 7 was amended by regulation 2(5) of S.R. 2005 No. 364

(b) after paragraph (c) add—

"(d) an EEA credit institution, or

(e) an EEA insurer.".

(4) In regulation 7A(2)(**10**) (applications and notifications to the Board – multi-employer schemes)—

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

(b) after sub-paragraph (c) add—

"(d) an EEA credit institution, or

(e) an EEA insurer.".

(5) In regulation 10 (confirmation of scheme status by Board)—

(a) in paragraph (1) after "regulation 7" insert "or 7A";

(b) in paragraph (3)(a) after "is a company" insert ", an EEA credit institution or an EEA insurer";

(c) in paragraph (3)(c) after "is a partnership" insert "but is not an EEA credit institution or an EEA insurer".

(6) In regulation 17(2) (payment of scheme benefits)—

(a) in sub-paragraph (a) for "an active member" substitute "a member";

(b) in sub-paragraph (b) for "death in service benefit" substitute "death benefit or a contribution refund (within the meaning of section 97AB(4)(**11**) of the Pension Schemes Act)".

(7) In regulation 25(b) (form and content of audited scheme accounts) for "a true and fair value" substitute "a true and fair view".

Amendment of the Pension Protection Fund (Valuation) Regulations

3. In regulation 1(2) of the Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005(**12**) (interpretation) in paragraph (b) of the definition of "relevant accounts"(**13**) for "a true and fair value" substitute "a true and fair view".

Amendment of the Pension Protection Fund (Compensation) Regulations

4. After regulation 13 of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005(**14**) (manner of determining the revaluation amount) insert—

"**Modification of Schedule 6 in relation to schemes with no revaluation**

13A.—(1) Where immediately before the assessment date the admissible rules of the scheme do not provide for any revaluation of the benefits payable to or in respect of any member, Schedule 6 shall be modified in its application to that scheme in accordance with this regulation.

(2) Paragraph 11 (active members who have not attained normal pension age at assessment date: periodic compensation) shall apply to that scheme as if for sub-paragraph (4) there were substituted—

(**10**) Regulation 7A was inserted by regulation 2(6) of S.R. 2005 No. 364
(**11**) Section 97AB was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005
(**12**) S.R. 2005 No. 131; relevant amending Regulations are S.R. 2007 No. 193
(**13**) The definition of "relevant accounts" was substituted by regulation 3(2)(b) of S.R. 2007 No. 193
(**14**) S.R. 2005 No. 149

"(4) In sub-paragraph (3) "the protected notional pension" means the accrued amount.".

(3) Paragraph 14 (active members who have not attained normal pension age at assessment date: lump sum compensation) shall apply to that scheme as if—

(a) for sub-paragraph (4) there were substituted—

"(4) In sub-paragraph (3) "the protected amount" means the accrued amount.", and

(b) sub-paragraph (8) were omitted.

(4) Paragraph 15 (deferred members who have not attained normal pension age at assessment date: periodic compensation) shall apply to that scheme as if for sub-paragraph (4) there were substituted—

"(4) In sub-paragraph (3) "the protected pension rate" means the accrued amount.".

(5) Paragraph 19 (deferred members who have not attained normal pension age at assessment date: lump sum compensation) shall apply to that scheme as if—

(a) for sub-paragraph (4) there were substituted—

"(4) In sub-paragraph (3) "the protected amount" means the accrued amount.", and

(b) sub-paragraph (6) were omitted.

(6) Schedule 6 shall apply to that scheme as if paragraphs 12, 16, 17 and 21(2)(b) and (f) were omitted.".

Amendment of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations

5.—(1) The Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006(**15**) shall be amended in accordance paragraphs (2) to (4).

(2) For regulation 3 (power to treat death in service lump sum benefits as having become payable before the assessment date) substitute—

"**Power to treat benefits as having become payable before the assessment date**

3.—(1) Where this regulation applies, the benefits referred to in paragraph (3) shall be treated, for the purposes of Article 147(2) of the Order (adjustments to be made where the Board assumes responsibility for a scheme), as having become payable before the assessment date.

(2) This regulation applies where—

(a) a member of an eligible scheme died before the commencement of the assessment period in relation to the scheme, and

(b) during the period mentioned in Article 147(2)(a) of the Order, a person became entitled under the scheme rules to a benefit referred to in paragraph (3) in respect of that member.

(3) The benefits referred to in this paragraph are—

(a) a death benefit which is calculated and paid by the trustees or managers of the eligible scheme on or after the assessment date but before the date the trustees or managers receive the transfer notice in respect of that scheme, and

(**15**) S.R. 2006 No. 155 to which there are amendments not relevant to these Regulations