STATUTORY RULES OF NORTHERN IRELAND

2007 No. 193

PENSIONS

The Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2007

Made - - - - 22nd March 2007

Coming into operation 6th April 2007

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 110(1)(b), 127(3) and (4), 135(8) and (9)(b), 147(6)(a), 152(1) and (2)(e), 162(1)(a) and (3), 188(2)(a) 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) 2007 and shall come into operation on 6th April 2007.

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) and (3).

(2) In regulation 2(1) (schemes which are not eligible schemes)—

(a) after sub-paragraph (f) insert—

"(fa) a tax registered scheme(**3**) which, immediately before 6th April 2006, was a former approved superannuation fund within the meaning of paragraph 1(1)(b) of Schedule 36 to the Finance Act 2004(**4**) (deemed registration of existing schemes);";

(b) in sub-paragraph (l) for head (i) substitute—

"(i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme, or";

(**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); *see also* paragraph (b) of the definition of "audited scheme accounts" in Article 135(8)

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

(**3**) 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

(**4**) 2004 c. 12

(c) in sub-paragraph (m) for head (i) substitute—

"(i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee is made by the unanimous agreement of the directors of that company who are members of the scheme, or".

(3) In paragraph 5(b)(**5**) of the Schedule (contents of accounts audited by the auditor of the scheme) for the words from "regulation 13" to the end of the paragraph substitute "regulation 13 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(**6**) (investments to which restrictions do not apply) applies.".

Amendment of the Pension Protection Fund (Valuation) Regulations

3.—(1) The Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005(**7**) shall be amended in accordance with paragraphs (2) to (6).

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

(a) after the definition of "pension credit rights" insert—

""pre-6th April 1997 contract of insurance" means a contract of insurance that—

(i) falls within the definition of a relevant contract of insurance in Article 145(8) of the Order (effect of Board assuming responsibility for a scheme);

(ii) was taken out before 6th April 1997; and

(iii) the trustees or managers are, or should reasonably be, aware of;";

(b) for the definition of "relevant accounts" substitute—

""relevant accounts" for the purposes of identifying and valuing the assets of a scheme, means audited accounts for the scheme which—

(a) contain the information specified in the Schedule(**8**);

(b) show a true and fair value of—

(i) the financial transactions of the scheme during the period to which the accounts relate ("the accounting period");

(ii) the amount and disposition of the assets at the end of the accounting period; and

(iii) the liabilities of the scheme, other than the liabilities to pay pensions and benefits, after the end of the accounting period;

(c) include a report by the auditor in writing as to whether or not, in his opinion, the requirements of paragraphs (a) and (b) are satisfied; and

(d) are prepared in respect of a period ending with the relevant time of the valuation;".

(3) In regulation 2 (provision of actuarial valuation to determine scheme underfunding)—

(a) for paragraph (1) substitute—

"(1) The trustees or managers of an eligible scheme shall provide the Board or the Regulator on the Board's behalf with its first Article 162 valuation—

(a) in the case of an eligible scheme which is a registrable scheme prior to 6th April 2007—

(**5**) Paragraph 5(b) was amended by regulation 21(5)(b) of S.R. 2006 No. 155
(**6**) S.R. 2005 No. 569; regulation 13 was amended by regulation 7(3) of S.R. 2006 No. 141
(**7**) S.R. 2005 No. 131 to which there are amendments not relevant to these Regulations
(**8**) Inserted by the Schedule to these Regulations

(i) within 15 months of the relevant time of that valuation; or

(ii) by 31st March 2008,

whichever is the earlier;

(b) in the case of an eligible scheme which becomes a registrable scheme on or after 6th April 2007, within 15 months of the effective date of the first actuarial valuation obtained by them under Article 203(**9**) of the Order (actuarial valuations and reports).";

(b) omit paragraphs (2) and (3);

(c) in paragraph (5) for "12 months" substitute "15 months".

(4) In regulation 3 (excluded assets) after paragraph (b) add—

"(c) in the case of either an Article 127 or Article 162 valuation, an amount in respect of the value of any pre-6th April 1997 contract of insurance if—

(i) the trustees or managers have taken all reasonable steps to obtain information concerning that contract of insurance (whether by searching the records of the scheme or otherwise); and

(ii) the information that they provide concerning that contract of insurance is insufficient, in the opinion of the appropriate person, to conduct a valuation.".

(5) In regulation 6 (valuation of protected liabilities)—

(a) the provisions of the regulation shall become paragraph (1) of the regulation;

(b) after that paragraph add—

"(2) Where regulation 3(c) applies, the amount representing the value of a protected liability(**10**) in respect of the benefits secured by a pre-6th April 1997 contract of insurance shall be excluded from the valuation of the eligible scheme's protected liabilities.".

(6) At the end add the Schedule as set out in the Schedule to these Regulations.

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

4. In regulations 6 (circumstances where the Board is not required to recover overpaid scheme benefits) and 16 (recovery of PPF compensation overpayments) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006(**11**)—

(a) in paragraph (2) for "it shall determine, having regard to any evidence provided under paragraph (1)(c)(ii)," substitute "it shall, as soon as reasonably practicable, determine";

(b) after paragraph (2) insert—

"(2A) The Board may request such additional information, from the person who gave the hardship notification, as it reasonably requires for the purpose of making a determination under paragraph (2).

(2B) In making such a determination, the Board shall have regard to any evidence provided under paragraph (1)(c)(ii) and any information provided under paragraph (2A).".

(**9**) Article 203 is modified by S.R.2005 Nos. 568 and 570

(**10**) The term "protected liabilities" is defined in Article 115(1) of the Pensions (Northern Ireland) Order 2005

(**11**) S.R. 2006 No. 155