STATUTORY RULES OF NORTHERN IRELAND

2007 No. 186

PENSIONS

The Pension Protection Fund (Closed Schemes) Regulations (Northern Ireland) 2007

Made - - - -	*20th 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 137(4) and (7), 140(1), (2) and (6), 141(1) and (7) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Closed Schemes) Regulations (Northern Ireland) 2007 and shall come into operation on 6th April 2007.

(2) In these Regulations—

"the Order" means the Pensions (Northern Ireland) Order 2005;

"the appropriate person" means the actuary as defined in Article 140(6) (valuations of closed schemes);

"Article 140 valuation" means an actuarial valuation under that Article;

"closed scheme" and "closed section" shall be construed in accordance with Article 139 (treatment of closed schemes);

"effective date" for the purposes of an Article 140 valuation, means the date by reference to which the assets were valued and the full scheme liabilities and the protected liabilities were calculated;

"protected liabilities" has the meaning given by Article 115;

"segregated scheme" means a multi-employer scheme which is divided into two or more sections where—

(a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer's or that member's section, and

(b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

(**1**) S.I. 2005/255 (N.I. 1); *see* the definition of "determination notice" in Article 137(7) and paragraph (b)(i) of the definition of "the actuary" in Article 140(6)

(3) In these Regulations, in the case of a scheme which is a segregated scheme, where these Regulations apply to a section of a scheme which is for the purposes of Part III(**2**) of the Order a closed section, for "closed scheme" and "scheme" substitute "closed section" and "section".

(4) In these Regulations, any reference to a numbered Article is a reference to the Article of the Order bearing that number.

Applications and determination notices under Article 137

2.—(1) An application to the Board for the purposes of Article 137(2) (closed schemes) shall be in writing and shall contain the following information—

(a) a description of the type or purpose of the application;

(b) the date on which the application is made;

(c) where the application is made in respect of a scheme, the name, address and pension scheme registration number of that scheme;

(d) where the application is made in respect of a section of a segregated scheme—

(i) the name, address and pension scheme registration number of that scheme, and

(ii) the name of the section;

(e) a description by the trustees or managers of the scheme of the steps they have taken to obtain a full buy-out quotation in respect of that scheme, and—

(i) the names and addresses of any persons they have approached for that purpose, and

(ii) the date on which any such approach was made, and

(f) where the Board does not already have the information, the name and address of each of the trustees or managers of that scheme.

(2) An application to the Board for the purposes of Article 137 shall be accompanied by evidence in the following form—

(a) a copy of any request made by the trustees or managers of the scheme in respect of which the application is made for a full buy-out quotation in respect of that scheme, and

(b) a copy of any refusal given to those trustees or managers in response to such a request.

(3) A determination notice issued by the Board under Article 137(6) shall be in writing and shall contain the following information—

(a) the name or type of notice issued;

(b) the date on which the notice is issued;

(c) where the notice is issued in respect of a scheme, the name, address and pension scheme registration number of that scheme;

(d) where the notice is issued in respect of a section of a segregated scheme—

(i) the name, address and pension scheme registration number of that scheme, and

(ii) the name of the section;

(e) the Board's determination to authorise or not to authorise the scheme to continue as a closed scheme, and

(f) where the Board has authorised the scheme to continue as a closed scheme, an explanation of the provisions of—

(**2**) Part III is modified in its application to multi-employer schemes by S.R. 2005 No. 91 as amended by S.R. 2005 Nos. 194 and 357

(i) Article 139 (treatment of closed schemes) in so far as they will operate while the scheme is a closed scheme;

(ii) Article 140 (valuations of closed schemes) in so far as they will operate while that scheme is a closed scheme, and

(iii) Article 141 (applications and notifications where closed schemes have insufficient assets) in so far as they will operate if at any time the trustees or managers of that scheme while it is a closed scheme become aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme.

Obtaining of actuarial valuations of closed schemes

3.—(1) In this regulation—

"the determination date" means the date immediately after—

(a) the expiry of the period within which the issue of the determination notice may be reviewed by virtue of Chapter 6 of Part III of the Order (reviews, appeals and maladministration), or

(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;

"the relevant period" is the period of three years beginning immediately after the relevant time of the actuarial valuation of the scheme under Article 127 (Board's obligation to obtain valuation of assets and protected liabilities);

"the relevant time" shall be construed in accordance with Article 127(11)(c).

(2) The effective date of the first Article 140 valuation shall—

(a) be within the relevant period, or

(b) where the determination date did not fall within the relevant period, be within the period of 15 months beginning on the determination date.

(3) Any subsequent Article 140 valuation shall have an effective date which is not more than three years after the effective date of the previous Article 140 valuation.

(4) The trustees or managers of a closed scheme shall obtain any Article 140 valuation of the scheme within the period of 15 months after its effective date.

Valuation of the assets and liabilities of closed schemes

4. For the purposes of Article 140—

(a) the assets, the full scheme liabilities and the protected liabilities in relation to a closed scheme, and

(b) their value or amount,

shall be determined, calculated and verified in accordance with the provisions of the Schedule.

Prescribed qualifications for the purposes of Article 140

5. For the purposes of the definition of "the actuary" contained in Article 140(6), a person with prescribed qualifications is—

(a) a fellow of the Faculty of Actuaries(**3**), or

(b) a fellow of the Institute of Actuaries(**4**).

Applications and notifications where closed schemes have insufficient assets

6.—(1) Where the trustees or managers of a closed scheme are required under Article 141(1) to make an application to the Board for it to assume responsibility for the scheme, they must do so within six months of the time when they become aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme.

(2) An application to the Board for the purposes of Article 141(1) shall be in writing and shall contain the following information—

(a) a description of the type or purpose of the application;

(b) the date on which the application is made;

(c) where the application is made in respect of a scheme, the name, address and pension scheme registration number of that scheme;

(d) where the application is made in respect of a section of a segregated scheme—

(i) the name, address and pension scheme registration number of that scheme, and

(ii) the name of the section;

(e) a statement by the trustees or managers of the scheme in respect of which the application is made that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme and the date on which they became so aware;

(f) a statement by the trustees or managers of the scheme in respect of which the application is made whether or not they obtained advice from the appropriate person before they became aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme;

(g) a statement by the trustees or managers of the scheme in respect of which the application is made of—

(i) the value of the assets of the scheme, and

(ii) the amount of the protected liabilities in relation to the scheme, and

(h) where the Board does not already have the information, the name and address of each of the trustees or managers of that scheme.

(3) Where the Regulator becomes aware that the value of the assets of a closed scheme is less than the amount of the protected liabilities in relation to that scheme, the notice which the Regulator must give to the Board under Article 141(3) shall be in writing and shall contain the following information—

(a) the name or type of notice given;

(b) the date on which the notice is given;

(c) where the notice is given in respect of a scheme, the name, address and pension scheme registration number of that scheme;

(d) where the notice is given in respect of a section of a segregated scheme—

(i) the name, address and pension scheme registration number of that scheme, and

(ii) the name of the section;

(**3**) The Faculty of Actuaries can be contacted at Faculty of Actuaries, MacLaurin House, 18 Dublin Street, Edinburgh EH1 3PP

(**4**) The Institute of Actuaries can be contacted at Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ

(e) a statement by the Regulator that it has become aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme;

(f) the date on which the Regulator became aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme, and

(g) where the Board does not already have the information, the name and address of each of the trustees or managers of that scheme.

(4) Where the Board receives a notice from the Regulator to which paragraph (3) applies, the notice under Article 141(4) which the Board must give to the trustees or managers of the scheme in question shall be in writing and shall contain the following information—

(a) the name or type of notice given;

(b) the date on which the notice is given;

(c) where the notice is given in respect of a scheme, the name, address and pension scheme registration number of that scheme;

(d) where the notice is given in respect of a section of a segregated scheme—

(i) the name, address and pension scheme registration number of that scheme, and

(ii) the name of the section;

(e) a statement that the Board received a notice from the Regulator under Article 141(3), the effect of that notice and the date on which it was given by the Regulator;

(f) the address for communications at which the Board may be contacted in respect of the giving of the notice, and

(g) whether the notice given by the Board contains any information which is restricted information under Article 179 (restricted information), and, if so, the nature of the restrictions.

Transitional provision for schemes with an assessment date before 1st April 2007

7.—(1) In this regulation, "assessment date" means the date on which the assessment period in relation to a scheme or closed scheme, or (where there has been more than one such assessment period) the last one, began.

(2) In the case of a scheme or closed scheme with an assessment date before 1st April 2007, these Regulations shall have effect until 31st December 2007 as if for the definition of "relevant accounts" in paragraph 1 of the Schedule there were substituted—

""relevant accounts" means—

(a) audited accounts for the scheme which are prepared in respect of a period ending with the effective date;

(b) if none are so prepared, the latest such accounts which are available at the effective date, or

(c) if the appropriate person's opinion is that it is practicable to use them, the latest such accounts which are available on the date the appropriate person signs the Article 140 valuation;".