STATUTORY RULES OF NORTHERN IRELAND

2005 No. 364

PENSIONS

The Pension Protection Fund (Entry Rules) (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*3rd August 2005*
Coming into operation	*24th August 2005*

The Department for Social Development, in exercise of the powers conferred on it by Articles 105(5), 109(4)(a), 110(5), 113(1)(b), (1A)(b), (3)(b) and (8) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Entry Rules) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 24th August 2005.

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 (9).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of "the Insolvency Rules" there shall be inserted the following definition—

> ""the Multi-employer Regulations" means the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005(**3**);".

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

(a) in paragraph (2) the words "with an employer in relation to the scheme" and "from that employer" shall be omitted;

(b) in paragraph (3)—

(**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; 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 No. 194

(**3**) S.R. 2005 No. 91; relevant amending regulations are S.R. 2005 No. 357

(i) in sub-paragraphs (a)(i) and (b) the words "with an employer in relation to the scheme" shall be omitted and for "from that employer under Article 75(2)" there shall be substituted "under Article 75";

(ii) in sub-paragraph (c) the words "is acting as creditor of an employer in relation to the scheme under Article 121 (Board to act as creditor of the employer) and" and "with that employer" shall be omitted and for "from that employer under Article 75(4)" there shall be substituted "under Article 75";

(c) paragraph (5)(c), but not the word "and" immediately after it, shall be omitted;

(d) after paragraph (7) there shall be added the following paragraph—

"(8) In their application to a segregated scheme, paragraphs (2) to (7) shall have effect as if each section of the scheme were a separate scheme.".

(4) In regulation 5(1) (prescribed insolvency events) for sub-paragraph (a) there shall be substituted the following sub-paragraphs—

"(a) in relation to a company, where—

(i) an administration order is made by the High Court in respect of the company by virtue of any statutory provision which applies Part III of the Insolvency Order (administration orders) (with or without modification);

(ii) the company moves from administration to winding up pursuant to an order of the court under Rule 2.65 of the Insolvency Rules(**4**) (conversion of administration into winding up – power of court), or

(iii) an administrator or liquidator of the company, being the nominee in relation to a proposal for a voluntary arrangement under Part II of the Insolvency Order (company voluntary arrangements), summons meetings of the company and of its creditors, to consider the proposal, in accordance with Article 16(2) of that Order (summoning of meetings);

(aa) in relation to a partnership, where—

(i) the partnership moves from administration to winding up pursuant to an order of the court under Rule 2.65 of the Insolvency Rules (as applied by an order under Article 364 of the Insolvency Order(**5**) (insolvent partnerships)), or

(ii) an administrator, liquidator or trustee of the partnership, being the nominee in relation to a proposal for a voluntary arrangement under Part II of the Insolvency Order (as applied by an order under Article 364 of that Order), summons meetings of the members of the partnership and of the partnership's creditors, to consider the proposal, in accordance with Article 16(2) of that Order (as applied by an order under Article 364 of that Order);".

(5) In regulation 7 (applications and notifications to the Board)—

(a) for "The prescribed requirements" there shall be substituted "Except in a case to which regulation 7A applies, the prescribed requirements";

(b) in paragraph (a)(i) after "defined in" there shall be inserted ", or in regulations made under,";

(c) at the end of paragraph (a)(ii)(bb) the word "or" shall be omitted;

(d) after paragraph (b) there shall be added—

"or

(**4**) Rule 2.65 was inserted by rule 6(8) of S.R. 2002 No. 261
(**5**) Article 364 was amended by regulation 4(3) of S.R 2002 No. 223

(c) a trade union within the meaning of Article 3(1) of the Industrial Relations (Northern Ireland) Order 1992(**6**) in relation to which it is not possible for an insolvency event as defined in, or in regulations made under, Article 105 to occur.".

(6) After regulation 7 there shall be inserted the following regulation—

"**Applications and notifications to the Board – multi-employer schemes**

7A.—(1) This regulation applies to—

(a) a multi-employer section to which Part III of the Multi-employer Regulations(**7**) (segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of a participating employer) applies which is, for the purposes of Part III of the Order, an eligible scheme, and

(b) a non-segregated scheme to which Part VI of the Multi-employer Regulations(**8**) (non-segregated schemes: schemes without provision for partial wind up on withdrawal of a participating employer) applies which is, for the purposes of Part III of the Order, an eligible scheme.

(2) In the case of a scheme, or a section of a scheme, to which this regulation applies, the prescribed requirements referred to in Article 113(1A)(b) and (4)(a)(ii)(**9**) (applications and notifications for the purposes of Article 112) that are to be met in relation to an employer in relation to the scheme, or the section, are that he is either—

(a) a public body—

(i) in relation to which it is not possible for an insolvency event as defined in, or in regulations made under, Article 105 (insolvency event, insolvency date and insolvency practitioner) to occur, and

(ii) which is not an employer in relation to a scheme, or a section of a scheme, in respect of which a relevant public authority has either—

(aa) given a guarantee in relation to any part of the scheme, or section, any benefits payable under the scheme, or section, or any member of the scheme, or section, or

(bb) made any other arrangements for the purposes of securing that the assets of the scheme, or section, are sufficient to meet any part of its liabilities;

(b) a charity which is not a company or other body corporate, or

(c) a trade union within the meaning of Article 3(1) of the Industrial Relations (Northern Ireland) Order 1992 in relation to which it is not possible for an insolvency event as defined in, or in regulations made under, Article 105 to occur.".

(7) In regulation 8(1) (applications and notifications to the Board – further provision) for "The prescribed period" there shall be substituted "Except in a case to which regulation 8A applies, the prescribed period".

(8) After regulation 8 there shall be inserted the following regulation—

(**6**) S.I. 1992/807 (N.I. 5)
(**7**) Part III was substituted by regulation 3(3) of S.R. 2005 No. 357
(**8**) Part VI was substituted by regulation 3(4) of S.R. 2005 No. 357
(**9**) Subsection (4) was substituted 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

"**Applications and notifications to the Board – further provision for multi-employer schemes**

8A.—(1) This regulation applies to—

(a) a multi-employer section to which Part III of the Multi-employer Regulations (segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of a participating employer) applies which is, for the purposes of Part III of the Order, an eligible scheme, and

(b) a non-segregated scheme to which Part VI of the Multi-employer Regulations (non-segregated schemes: schemes without provision for partial wind up on withdrawal of a participating employer) applies which is, for the purposes of Part III of the Order, an eligible scheme.

(2) The prescribed period for making an application to the Board under Article 113(1)(a) or (b)(**10**) (applications and notifications for the purposes of Article 112) shall be—

(a) where the application is under Article 113(1)(a), the period of 28 days beginning with the date on which the trustees or managers of a scheme, or a section of a scheme, become aware that the conditions for making an application to the Board under that Article are met in relation to that scheme or section, or

(b) where the application is under Article 113(1)(b), the period of 28 days beginning with—

(i) 24th August 2005 if the trustees or managers of a scheme, or a section of a scheme, are aware on that date that the conditions for making an application to the Board under that Article were met in relation to that scheme, or section, between 6th April 2005 and that date, or

(ii) the date on which the trustees or managers of a scheme, or a section of a scheme, become aware after 24th August 2005 that the conditions for making an application to the Board under that Article are met in relation to that scheme or section.

(3) Applications to the Board for the purposes of Article 112(**11**) (duty to assume responsibility for schemes following application or notification) shall, where the application is made under Article 113(1)(a), be in writing and shall contain the following information—

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

(b) the name, address and pension scheme registration number of the scheme, or section of the scheme, in respect of which the application is made;

(c) the name of the employer in relation to the scheme, or section of the scheme, in respect of which the application is made;

(d) a statement by the trustees or managers of the scheme, or section of the scheme, that the conditions for making an application to the Board under Article 113(1)(a) have been met;

(e) the date on which the trustees or managers of the scheme, or section of the scheme, became aware that the conditions for making an application to the Board under Article 113(1)(a) were met, and

(f) the date on which the application was sent to the Board by the trustees or managers of the scheme or section of the scheme.

(**10**) Article 113(1) was substituted 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

(**11**) Article 112(1) was substituted 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