STATUTORY RULES OF NORTHERN IRELAND

2005 No. 363

PENSIONS

The Occupational Pension Schemes (Winding Up) (Modification for Multi-employer Schemes and Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Made - - - -	*3rd August 2005*
Coming into operation	*31st August 2005*

The Department for Social Development, in exercise of the powers conferred by Articles 56(3), 73(7), 73B(4)(a) and (b)(i) and (ii) and (5), 115(1)(a) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**1**), and now vested in it(**2**), and of all other powers enabling it in that behalf, by this statutory rule which is consequential upon Article 247 of the Pensions (Northern Ireland) Order 2005(**3**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Winding Up) (Modification for Multi-employer Schemes and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into force on 31st August 2005.

(2) In these Regulations—

"the 1995 Order" means the Pensions (Northern Ireland) Order 1995;

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

"assessment period" is to be read in accordance with Article 116 of the 2005 Order.

Modification for multi-employer schemes of rules about reduction of benefits during winding up period

2.—(1) This paragraph applies to an occupational pension scheme at any time ("the relevant time") if—

(a) Article 73 of the 1995 Order (preferential liabilities on winding up) applies to the scheme;

(**1**) S.I. 1995/3213 (N.I. 22); Article 73 was substituted and Articles 73A and 73B were inserted by Article 247(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and modified by regulations 12 to 12B of S.R. 1996 No. 621 (Regulation 12 was amended by paragraph 12 of the Schedule to S.R. 1997 No. 160 and modified by paragraph 6 of the Schedule to S.R. 2005 No. 171 and regulations 12A and 12B were inserted by paragraph 7 of that Schedule)

(**2**) *See* Article 8(b) of S.R. 1999 No. 481

(**3**) S.I. 2005/255 (N.I. 1)

(b) the scheme has been a relevant multi-employer scheme at any time after 5th April 2005;

(c) at a time after that date when the scheme was such a scheme an event that is an insolvency event for the purposes of Part III of the 2005 Order (see Article 105 of that Order) has occurred in relation to a person who immediately before the event was an employer in relation to the scheme; and

(d) the trustees or managers of the scheme have reasonably determined not more than 3 months before the relevant time that it is probable that an assessment period will begin in relation to the scheme not more than 12 months after the time of the determination.

(2) In paragraph (1) "relevant multi-employer scheme" means an occupational pension scheme—

(a) in relation to which there are 2 or more employers; and

(b) the rules of which do not provide for the partial winding up of the scheme if one of the employers ceases to participate in the scheme.

(3) If paragraph (1) applies to a scheme, Article 73A(2)(a) of the 1995 Order (which requires the trustees or managers during the winding up period to secure that pensions or other benefits paid in respect of members are reduced, so far as necessary, to reflect the liabilities in respect of the members which will be satisfied in accordance with Article 73 of that Order) applies to the scheme with the modification specified in paragraph (4).

(4) The modification is that Article 73A(2)(a) applies as if the reference to the liabilities in respect of the members which will be satisfied in accordance with Article 73 of the 1995 Order were a reference to those liabilities or, if the trustees or managers consider it appropriate, to the liabilities in respect of the members which would be satisfied in accordance with that section on the assumption that the liabilities mentioned in—

(a) Article 73(4)(a) and (b) of that Order (liabilities under certain pre-1997 contracts of insurance and liabilities for pensions or other benefits) will be fully satisfied (but in the case of the liabilities mentioned in Article 73(4)(b) only to the extent that they do not exceed the corresponding PPF liability, as defined in Article 73(5) of that Order); and

(b) Article 73(4)(c) and (d) of that Order will not be satisfied in whole or in part.

(5) If—

(a) the trustees or managers of a scheme have made payments in accordance with the requirement in Article 73A(2)(a) of the 1995 Order on the assumption mentioned in paragraph (4); and

(b) subsequently paragraph (1) ceases to apply to the scheme because the condition in paragraph (1)(d) ceases to be met,

Article 73A(2)(b) of the 1995 Order (which for the purposes of Article 73A(2)(a) permits the recovery of overpayments and payment of shortfalls) applies as if the reference to the purposes of Article 73A(2)(a) included a reference to the purpose of recovering any overpayment or paying any shortfall that has occurred as a result of payments having been made on that assumption.

(6) In any case where, by virtue of regulation 12, 12A or 12B of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(**4**) (winding up of sectionalised schemes, schemes with partial government guarantee and partly foreign schemes), Articles 73 to 74 of the 1995 Order(**5**) apply to a scheme as if different parts of the scheme were separate schemes—

(a) this regulation (apart from this paragraph) also applies; and

(b) references to schemes, employers and members must be read accordingly.

(**4**) S.R. 1996 No. 621; relevant amending regulations are S.R. 1997 No. 160 and S.R. 2005 No. 171

(**5**) Article 74 was amended by paragraph 45 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Article 247(2) of the Pensions (Northern Ireland) Order 2005 and Article 60 of S.I. 2002/1555 and modified by regulations 12 to 12B of S.R. 1996 No. 621