STATUTORY RULES OF NORTHERN IRELAND

2005 No. 172

PENSIONS

The Pensions Regulator (Notifiable Events) Regulations (Northern Ireland) 2005

Made - - - -	*25th March 2005*
Coming into operation	*6th April 2005*

The Department for Social Development, in exercise of the powers conferred on it by Articles 64(2) and 287(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, commencement and interpretation

1.—(1) These Regulations may be cited as the Pensions Regulator (Notifiable Events) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

(2) In these Regulations –

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

"business" includes trade or profession;

"control" has the meaning ascribed to it in Article 4(10) of the Insolvency Order ("associate"), and "controlling company" is to be construed accordingly;

"debt" includes a contingent debt;

"director" has the meaning given to it in Article 9 of the Companies Order(**2**) ("director" and "shadow director");

"key employer posts" means the Chief Executive and any director or partner responsible in whole or in part for the financial affairs of the employer;

"key scheme posts" means the auditor and the actuary appointed to a scheme under Article 47(1) of the 1995 Order (professional advisers);

"scheme assets" means the value of the assets according to the most recent actuarial valuation carried out under Article 203 of the Order (actuarial valuations and reports) or, if no such

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

(**2**) By virtue of regulation 4 of, and Part I of Schedule 2 to, the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. 2004 No. 307) Article 9 (except paragraph (3)) applies to limited liability partnerships with the modifications set out in regulation 4(1)

valuation has been carried out, the most recent valuation carried out under Article 56 of the 1995 Order (minimum funding requirement) and regulations made thereunder.

Notifiable events

2.—(1) The events prescribed for the purposes of Article 64(2)(a) of the Order (duty to notify the Regulator of certain events – prescribed events in respect of an eligible scheme) are –

(a) any decision by the trustees or managers to take action which will, or is intended to, result in any debt which is or may become due to the scheme not being paid in full;

(b) two or more changes in the holders of any key scheme post within the previous 12 months;

(c) a decision by the trustees or managers of a scheme ("the relevant scheme") to make a transfer payment to, or accept a transfer payment from, another scheme the value of which is more than the lower of –

(i) 5 per cent. of the value of the scheme assets of the relevant scheme, and

(ii) £1,500,000 (one million five hundred thousand pounds);

(d) a decision by the trustees or managers to grant benefits, or a right to benefits, on more favourable terms than those provided for by the scheme rules, without either seeking advice from the actuary (appointed under Article 47(1) of the 1995 Order) or securing additional funding where such funding was advised by the actuary;

(e) a decision by the trustees or managers to grant benefits, or a right to benefits, to a member the cost of which is more than the lower of –

(i) 5 per cent. of the value of the scheme assets, and

(ii) £1,500,000 (one million five hundred thousand pounds).

(2) The events prescribed for the purposes of Article 64(2)(b) of the Order (duty to notify the Regulator of certain events – prescribed events in respect of the employer in relation to an eligible scheme) are –

(a) any decision by the employer to take action which will, or is intended to, result in a debt which is or may become due to the scheme not being paid in full;

(b) a decision by the employer to cease to carry on business in the United Kingdom;

(c) where applicable, receipt by the employer of advice that it is trading wrongfully within the meaning of Article 178 of the Insolvency Order(**3**) (wrongful trading), or circumstances being reached in which a director or former director of the company knows that there is no reasonable prospect that the company will avoid going into insolvent liquidation within the meaning of that Article, and for this purpose Article 178(4) of that Order applies;

(d) any breach by the employer of a covenant in an agreement between the employer and a bank or other institution providing banking services, other than where the bank or other institution agrees with the employer not to enforce the covenant;

(e) any change in the employer's credit rating, or the employer ceasing to have a credit rating;

(f) where the employer is a company, a decision by a controlling company to relinquish control of the employer company;

(g) two or more changes in the holders of any key employer posts within the previous 12 months;

(**3**) Article 178 is modified by section 90 of, and Schedule 15 to, the Building Societies Act 1986 (c. 53) and by section 23 of and Schedule 10 to, the Friendly Societies Act 1992 (c. 40). By virtue of regulation 5 of the Limited Liability Partnerships Regulations (Northern Ireland) 2004 Article 178 applies to limited liability partnerships with the modifications set out in regulation 5(2)(a) and (b)