STATUTORY RULES OF NORTHERN IRELAND

# 2005 No. 129

# PENSIONS

## The Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005

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| *Made - - - -* | *16th March 2005* |
| *Coming into operation* | *6th April 2005* |

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5)(a), 172, 185(1) 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 (Provision of Information) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

### Interpretation

**2.**—(1) In these Regulations –

"the Order" means the Pensions (Northern Ireland) Order 2005(**2**);

"appointed representative" means a person –

(a) whose name, address and appointment by the member or beneficiary for the purposes of –

(i) providing information to the Board, or

(ii) receiving information from the Board,

under regulation 3 or 5 have been notified to the Board in a document signed by the member or beneficiary in question or by his legal representative; and

(b) whose appointment has been consented to by the Board;

"assessment period" shall be construed in accordance with Article 116 (assessment periods);

"beneficiary" in relation to an eligible scheme means any person, other than a member of that scheme, who is entitled to compensation in accordance with the pension compensation provisions;

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

(**2**) The Pensions (Northern Ireland) Order 2005 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

"eligible scheme" shall be construed in accordance with Article 110 (eligible schemes);

"insolvency practitioner" shall be construed in accordance with Article 105 (insolvency event, insolvency date and insolvency practitioner);

"multi-employer scheme" shall be construed in accordance with Article 280(4);

"normal pension age" in relation to any pension or lump sum in respect of which compensation is payable shall be construed in accordance with paragraph 34 of Schedule 6 to the Order (pension compensation provisions);

"pension compensation provisions" shall be construed in accordance with Article 146 (the pension compensation provisions);

"personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person;

"the register" means the register of occupational and personal pension schemes compiled and maintained under section 59 of the Pensions Act 2004(**3**);

"review decision" shall be construed in accordance with Article 189(1)(a) (review and reconsideration by the Board of reviewable matters); and

"transfer notice" shall be construed in accordance with Article 144 (transfer notice).

(2) Subject to paragraph (3), in these Regulations, "employer", in relation to an occupational pension scheme which has no active members, includes every person who was the employer of persons in the description of employment to which the scheme relates immediately before the time at which the scheme ceased to have any active members in relation to it.

(3) In these Regulations, "employer", in relation to a multi-employer scheme, or a section of a multi-employer scheme, includes –

(a) in the case of a scheme which has no active members, every person who was the employer of persons in the description of employment to which the scheme, or section, relates immediately before the time at which the scheme, or section, ceased to have any active members in relation to it unless, after that time –

(i) a debt under Article 75 of the 1995 Order(**4**) (deficiencies in the assets) becomes due from that person to the scheme, or section, and

(ii) either –

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section; or

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers; and

(b) in any other case, any person who has ceased to be the employer of persons in the description of employment to which the scheme, or section, relates unless –

(i) at the time when he so ceased, the scheme, or section, was not being wound up and continued to have active members in relation to it, and

(ii) a debt under Article 75 of the 1995 Order became due at that time from that person to the scheme, or section, and either –

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section; or

(**3**) 2004 c. 35
(**4**) Article 75 is amended by Article 248 of the Pensions (Northern Ireland) Order 2005

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers.

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

**Information to be provided by the Board**

**3.**—(1) In this regulation –

"insolvency event" shall be construed in accordance with Article 105;

"qualifying insolvency event" shall be construed in accordance with Article 111 (duty to assume responsibility for schemes following insolvency event); and

"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.

(2) Where the Board receives a notice under Article 104(2) (duty to notify insolvency events in respect of employers) from an insolvency practitioner that an insolvency event has occurred in relation to an employer, and –

(a) the scheme to which the notice relates is an eligible scheme; or

(b) in the case of a multi-employer scheme which is a segregated scheme, the section to which the notice relates is an eligible section,

it shall, within the period of 28 days beginning with its receipt of that notice, provide that insolvency practitioner, the Regulator and the trustees or managers of that scheme or section with the information described in paragraph (3).

(3) The information to be provided under paragraph (2) is –

(a) where the insolvency event is not a qualifying insolvency event, that the insolvency event is not such an insolvency event; or

(b) where the insolvency event is a qualifying insolvency event, that the insolvency event is such an insolvency event and the date on which the assessment period began.

(4) Where the Board –

(a) receives, during the assessment period, an application for a loan from the trustees or managers of a scheme under Article 123(2) (loans to pay scheme benefits); and

(b) decides whether or not it will make a loan to those trustees or managers,

it shall, within the period of 14 days beginning with the day on which it made its decision, notify those trustees or managers of its decision, of the amount that it considers appropriate to lend and of the terms on which it will make the loan.

(5) Where a person is authorised by the Board for the purposes of these Regulations as mentioned in Article 172(1)(b)(ii) (information to be provided to the Board etc.) in relation to a scheme, the Board shall, within 14 days of making that authorisation, notify the identity of the person so authorised to –

(a) the trustees or managers of that scheme;

(b) the employer in respect of that scheme; and

(c) the insolvency practitioner in relation to that employer.

(6) Where the Board has given the trustees or managers of a scheme a transfer notice, the information to be provided by the Board to members and beneficiaries of that scheme shall be determined in accordance with Schedule 1.

**Information to be provided by trustees or managers**

**4.**—(1) This regulation applies where there is an assessment period in relation to an eligible scheme.

(2) The information to be provided to –

(a) the Board; and

(b) members of that scheme,

by the trustees or managers of that scheme shall be determined in accordance with Schedule 2.

**Information to be provided by members and beneficiaries and their personal representatives**

**5.**—(1) This regulation applies where the Board has given the trustees or managers of a scheme a transfer notice.

(2) The information to be provided to the Board by members and beneficiaries of that scheme shall be determined in accordance with Schedule 3.

(3) Where a member or a beneficiary dies, his personal representative shall, within the period of 28 days beginning with the day of the death, notify the Board of the death and provide the death certificate to the Board.

**Method of providing information**

**6.**—(1) Where, under these Regulations, any information is to be provided to any person, that information shall be provided in writing.

(2) Where –

(a) under these Regulations, any information is to be provided –

(i) to the Board by any member or beneficiary, or

(ii) by the Board to any member or beneficiary; and

(b) there is an appointed representative in relation to that member or beneficiary,

that information shall be provided by, or to, his appointed representative.

(3) Any document sent, or notification given, by the Board to any member or beneficiary under regulation 3(6) shall include –

(a) the name of the scheme to which it relates or other information sufficient to identify the subject matter of the document or notification;

(b) the address and telephone number of the Board;

(c) the name in legible characters of the sender of the document or giver of the notification; and

(d) the date on which it was sent or given.

(4) Any notification given by the Board to any person under regulation 3(2), (4) or (5) shall include –

(a) the name of the person to whom it is given;

(b) the name of the scheme to which the notification relates;

(c) the pension scheme registration number which is allocated to that scheme in the register;

(d) the address and telephone number of the Board;

(e) the name in legible characters of the giver of the notification; and

(f) the date on which it was given.

(5) Any document sent, or notification given, by any trustees or managers to the Board under regulation 4(2) shall include –

(a) the names of the trustees or managers sending the document or giving the notification;

(b) the name of the scheme to which the document or notification relates; and

(c) the pension scheme registration number which is allocated to that scheme in the register.

(6) Any document sent, or notification given, to the Board by any member under regulation 5(2), or by the personal representative of a deceased member under regulation 5(3), shall include, in relation to that member –

(a) the name, address, date of birth and national insurance number of that member;

(b) the name of the employer in relation to the scheme in which that member's pension rights accrued; and

(c) the address or location of a place of business of that employer.

(7) Any document sent, or notification given, to the Board by any beneficiary under regulation 5(2), or by the personal representative of a deceased beneficiary under regulation 5(3), shall include, in relation to the member from whom that beneficiary has accrued pension rights, the information described in paragraph (6)(a), (b) and (c) and the name, address, date of birth and national insurance number of that beneficiary.

Sealed with the Official Seal of the Department for Social Development on 16th March 2005.

*John O'Neill*
A senior officer of the
Department for Social Development