STATUTORY RULES OF NORTHERN IRELAND

2005 No. 91

PENSIONS

The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005

Made - - - - 11th March 2005
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5)(a), 280(1)(b) and (2)(b) 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:

PART I

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 and shall come into operation –

(a) for the purposes of this regulation, and regulations 2(2)(b), 3(2)(d), 5(2)(d), 9(1)(a) and (2)(a), 14(3)(b), 15(2)(e), 18(c), 24(1)(a) and (2)(a), 28(4)(b), 29(2)(d), 32(d), 38(1)(d)(i), 39(1)(a) and (2)(a), 45(4)(b), 46(2)(d), 49(d), 54(1)(d)(i), 55(1)(a) and (2)(a), 63(1) and 73(3) for the purpose only of the making of regulations, on 14th March 2005;

(b) for the purposes of regulations 4, 16, 30, 47, 63(2), 73(2)(b) and 74(2) on 1st April 2005; and

(c) for all other purposes on 6th April 2005.

(2) In these Regulations –

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

"multi-employer section" means a section of a segregated scheme which has at least two employers in relation to that section;

"pensionable service" has the meaning given by section 66(2) of the Pension Schemes Act (interpretation of Part IV); and

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

"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.

(3) In the application of Part III of the Order and of these Regulations to a multi-employer scheme, or a section of a multi-employer scheme, "employer" includes –

(a) in the case of a scheme which has no active members, every person who was the employer of persons in the description or category 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(**2**) (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 or category 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

(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.

(**2**) Article 75 is amended by Article 248 of the Pensions (Northern Ireland) Order 2005

PART II

SEGREGATED SCHEMES: SINGLE EMPLOYER SECTIONS

Application and effect

2.—(1) This regulation applies to a section of a segregated scheme with one employer in relation to that section in circumstances where –

(a) an insolvency event occurs in relation to an employer in relation to that section; or

(b) the trustees or managers of the scheme become aware that the employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed under paragraph (1)(b) of Article 113 (applications and notifications for the purposes of Article 112).

(2) Except as otherwise provided in this Part, in a case to which this regulation applies –

(a) Part III of the Order, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and

(b) references in Part III of the Order, except in Chapter 4, to –

(i) "scheme rules" shall be read as if they were references to "scheme rules relating to the section";

(ii) "the scheme" shall be read as if they were references to "the section";

(iii) "the employer" shall be read as if they were references to "the employer in relation to the section", and

(iv) "trustees or managers of the scheme" shall, in relation to a section of a segregated scheme, be read as if they were references to "trustees or managers with ultimate responsibility for the administration of the section".

(3) Paragraph (2) shall not have effect in relation to Article 157 (initial levy).

Notification of insolvency events, confirmation of scheme status etc.

3.—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) in paragraph (1) for "in the case of an occupational pension scheme, an insolvency event occurs in relation to the employer" there were substituted "in the case of a multi-employer scheme which is divided into two or more sections ("a segregated scheme"), an insolvency event occurs in relation to an employer in relation to a section of the scheme in circumstances where that employer is the only employer in relation to that section"; and

(b) after paragraph (2) there were inserted the following paragraph –

"(2A) Where the trustees or managers of a section of a segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".

(2) Article 106 (insolvency practitioner's duty to issue notices confirming status of the scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) in paragraph (1) for "employer in relation to an occupational pension scheme" there were substituted "employer in relation to a section of a segregated scheme in circumstances where that employer is the only employer in relation to that section";

(b) in paragraph (2) –

(i) in sub-paragraph (a) after "a scheme rescue is not possible" there were inserted "in relation to the relevant section of the scheme", and

(ii) in sub-paragraph (b) after "a scheme rescue has occurred" there were inserted "in relation to the relevant section of the scheme";

(c) in paragraph (4) for "in relation to the scheme" there were substituted "in relation to the relevant section of the scheme";

(d) in paragraph (5) –

(i) in sub-paragraph (a) for "in relation to an occupational pension scheme" there were substituted "in relation to a section of a segregated scheme", and

(ii) in sub-paragraph (b) for "in relation to such a scheme" there were substituted "in relation to such a section"; and

(e) after paragraph (6) there were inserted the following paragraph –

"(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".

(3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –

"(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".

(4) Article 108 (Board's duty where there is a failure to comply with Article 106) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) in paragraph (1) for "in relation to an occupational pension scheme" there were substituted "in relation to a section of a segregated scheme in circumstances where the employer is the only employer in relation to that section"; and

(b) after paragraph (4) there were inserted the following paragraph –

"(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".

(5) Article 109 (binding notices confirming status of scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) after paragraph (3) there were inserted the following paragraph –

"(3A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme."; and

(b) in paragraph (4)(b) for "ceases to be involved with the scheme" there were substituted "ceases to be involved with the relevant section of the scheme".

Eligible schemes

4.—(1) Except as otherwise provided in this Part, for the purposes of Part III of the Order, except Chapter 4, as it applies in the case of a section of a segregated scheme to which regulation 2 applies, references to "an eligible scheme" shall be read as if they were references to a section of a segregated scheme in circumstances where that section, if it were a scheme, would not be –

(a) a money purchase scheme; or

(b) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b) (eligible schemes).

(2) Paragraph (1) shall not apply for the purposes of Articles 157 to 164 (the levies).

Board's duty where application or notification received under Article 113

5.—(1) Article 113 (applications and notifications for the purposes of Article 112) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) after paragraph (1) there were inserted the following paragraph –

"(1A) Where the trustees or managers of a section of a segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme."; and

(b) after paragraph (5) there were inserted the following paragraph –

"(5A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.".

(2) Article 114 (Board's duty where application or notification received under Article 113) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) in paragraph (2) after "a scheme rescue is not possible" there were inserted "in relation to the relevant section of a segregated scheme";

(b) in paragraph (3) after "a scheme rescue has occurred" there were inserted "in relation to that section";

(c) after paragraph (4) there were inserted the following paragraph –

"(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.";

(d) in paragraph (5) –

(i) in sub-paragraph (a) for "in relation to an occupational pension scheme" there were substituted "in relation to a section of a segregated scheme", and

(ii) in sub-paragraph (b) for "in relation to such a scheme" there were substituted "in relation to such a section"; and

(e) after paragraph (7) there were inserted the following paragraph –

"(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the