
Status: Point in time view as at 01/01/2006.

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STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Cessation of involvement with a scheme

Circumstances in which Board ceases to be involved with an eligible scheme

133.—(1) Where an assessment period begins in relation to an eligible scheme, the Board ceases to be involved with the scheme, for the purposes of this Part, on the occurrence of the first withdrawal event after the beginning of that period.

(2) For this purpose the following are withdrawal events in relation to a scheme—

- (a) a withdrawal notice issued under Article 106(2)(b) (scheme rescue has occurred) becoming binding;
- (b) a withdrawal notice issued under Article 114(3) (scheme rescue has occurred) becoming binding;
- (c) a withdrawal notice issued under or by virtue of Article 130 or 131 (refusal to assume responsibility) becoming binding;
- (d) a withdrawal notice issued under Article 132 (no insolvency event has occurred or is likely to occur) becoming binding,

and references in this Chapter to a “withdrawal event” are to be construed accordingly.

(3) Paragraph (4) applies where a withdrawal notice mentioned in paragraph (2) is issued in relation to a scheme and becomes binding and—

- (a) an insolvency event in relation to the employer occurs during the interim period and, if paragraph (4) did not apply, the event would not be a qualifying insolvency event within the meaning given by paragraph (3) of Article 111 solely because the condition in head (ii) of sub-paragraph (b) of that paragraph would not be satisfied, or
- (b) an application under Article 113(1) is made, or a notification under Article 113(5)(a) is given, in relation to the scheme during the interim period and, if paragraph (4) did not apply, the application or notification would be disregarded for the purposes of—
 - (i) paragraph (1) of Article 112 by virtue of paragraph (4) of that Article, and
 - (ii) paragraph (4) of Article 116 by virtue of paragraph (5) of that Article.

(4) In such a case, the withdrawal notice is to be treated for the purposes of paragraphs (1) and (2), as if the time when it became binding was the time immediately before—

- (a) in a case falling within paragraph (3)(a), the occurrence of the insolvency event, and

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- (b) in a case falling within paragraph (3)(b), the making of the application under Article 113(1) or, as the case may be, the giving of the notification under Article 113(5)(a).
- (5) For the purposes of paragraph (3), the “interim period” in relation to a scheme means the period beginning with the issuing of the withdrawal notice in relation to the scheme and ending with that notice becoming binding.
- (6) For the purposes of this Chapter—
 - (a) the occurrence of a withdrawal event in relation to a scheme in respect of a withdrawal notice issued during a particular period (“the specified period”) is a possibility until each of the following is no longer reviewable—
 - (i) any withdrawal notice which has been issued in relation to the scheme during the specified period;
 - (ii) any failure to issue such a withdrawal notice during the specified period;
 - (iii) any notice which has been issued by the Board under Chapter 2 or this Chapter which is relevant to the issue of a withdrawal notice in relation to the scheme during the specified period or to such a withdrawal notice which has been issued during that period becoming binding;
 - (iv) any failure to issue such a notice as is mentioned in head (iii), and
 - (b) the issue of, or failure to issue, a notice is to be regarded as reviewable—
 - (i) during the period within which it may be reviewed by virtue of Chapter 6, and
 - (ii) if the matter is so reviewed, until—
 - (a) the review and any reconsideration,
 - (b) any reference to the PPF Ombudsman in respect of the matter, and
 - (c) any appeal against his determination or directions,
 has been finally disposed of.

Consequences of the Board ceasing to be involved with a scheme

134.—(1) Where—

- (a) an assessment period comes to an end by virtue of the Board ceasing to be involved with an eligible scheme, and
 - (b) during the assessment period any amount of any benefit payable to a member, or to a person in respect of a member, under the scheme rules was not paid by reason of Article 122 (requirement to pay benefits in accordance with the pension compensation provisions),
- that amount falls due to the member, or as the case may be, person at the end of that period.

(2) Where the winding up of the scheme began before the end of the assessment period (whether by virtue of Article 198 (backdating the winding up of eligible schemes) or otherwise), the reference in paragraph (1)(b) to the amount of any benefit payable to a member, or to a person in respect of a member, under the scheme rules is a reference to the amount so payable taking account of any reduction required by virtue of Articles 73 to 73B of the 1995 Order (provisions relating to the winding up of certain schemes).

(3) Where—

- (a) an assessment period comes to an end by virtue of the Board ceasing to be involved with an eligible scheme, and
- (b) during the assessment period the amount of benefit paid to a member, or to a person in respect of a member, under the scheme rules exceeded the amount that would have been

payable in the absence of Article 122(6) (requirement to disregard winding up when paying benefits during assessment period),

the trustees or managers of the scheme must, at the end of that period, take such steps as they consider appropriate (including steps to adjust future payments under the scheme rules) to recover an amount equal to the excess from the person to whom it was paid.

(4) Paragraphs (1) to (3) are without prejudice to Article 73A(2)(b) of the 1995 Order (requirement to adjust benefits paid to reflect liabilities which can be met on winding up).

(5) Regulations may provide that, in cases within sub-paragraph (a) of paragraph (1), benefits are to accrue under the scheme rules, in such circumstances as may be prescribed, to or in respect of members of the scheme in respect of any specified period of service being service in employment which, but for Article 117(5), would have qualified the member in question for those benefits under the scheme rules.

(6) Regulations under paragraph (5) may in particular make provision—

- (a) for benefits not to accrue to, or in respect of, a member unless contributions are paid by or on behalf of the member towards the scheme within a prescribed period;
- (b) for contributions towards the scheme which, but for Article 117, would have been payable by or on behalf of the employer (otherwise than on behalf of an employee) during the assessment period, to fall due;
- (c) requiring that such contributions as are mentioned in sub-paragraph (a) or (b) are accepted for the assessment period or any part of that period;
- (d) modifying Article 28 of the 1999 Order (reduction of benefit where a person's shareable rights are subject to a pension debit), in its application in relation to cases where benefits accrue under the scheme by virtue of regulations under paragraph (5).

(7) In this Article “contributions” means, in relation to an eligible scheme, contributions payable towards the scheme by or on behalf of the employer or the active members of the scheme in accordance with the schedule of contributions maintained under Article 206 in respect of the scheme.

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