

2005 No. 127

PENSIONS

**The Pension Protection Fund (Reviewable Matters)
Regulations (Northern Ireland) 2005**

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 188(2)(a) and (4)(a) and 280(3) of the Pensions (Northern Ireland) Order 2005(a), 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 Pension Protection Fund (Reviewable Matters) 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 and any reference to a numbered Article or Schedule is a reference to the Article of, or the Schedule to, the Order bearing that number.

Reviewable matters: failures by the Board

2. Any reference in any paragraph of Schedule 8 (reviewable matters) specified in column 1 of the Schedule to these Regulations to a failure by the Board to do any act or make any determination is to be construed as a reference to a failure by the Board to do the act or make the determination within the period specified in the corresponding paragraph in column 2 of that Schedule.

Modification of Schedule 8

3. In relation to a partially guaranteed scheme, Schedule 8 applies as if –

- (a) in paragraph 8 after “valuation” there were inserted “of the unsecured part”;
- (b) in paragraph 9 after “respect” there were inserted “of the unsecured part”; and
- (c) after paragraph 15 there were inserted the following paragraphs –

“15A. The failure by the Board to obtain an actuarial valuation of the assets and protected liabilities of the unsecured part of an eligible scheme under Article 144(4A)(b).

15B. The approval of, or failure to approve, a valuation of the assets and protected liabilities of the unsecured part of an eligible scheme under Article 128(2) as applied for the purposes of Article 144(4A).”.

(a) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84, and in its application to multi-employer schemes by S.R. 2005 No. 91
(b) Paragraph (4A) was inserted by regulation 10(1)(a) of S.R. 2005 No. 55

Amendment of Schedule 8

4. In Schedule 8 –

(a) after paragraph 3 there shall be inserted the following paragraph –

“3A. The issue of, or failure to issue, a validation notice under regulation 2(5) of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005^(a).”;
and

(b) after paragraph 17 there shall be inserted the following paragraph –

“17A. The making of a payment under Article 150(2) (amount of any pensions or other benefits which a person had become entitled to payment of under the scheme rules), the amount of any such payment or the failure to make such a payment.”.

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

(L.S.)

John O'Neill

A senior officer of the Department for Social Development

(a) S.R. 2005 No. 126

SCHEDULE

Regulation 2

Column 1	Column 2
<i>Paragraph of Schedule 8 which specifies the failure</i>	<i>Prescribed period</i>
1. Paragraph 2	1. The period beginning with the 15th day after the date on which the Board receives a copy of a notice under Article 106(6) to the date on which the Board issues a determination notice under Article 107(4).
2. Paragraph 3	<p>2. Where –</p> <p>(a) Article 108(1)(a) applies, the period beginning with the 22nd day after the date on which the Board issues a determination notice under Article 107(4) not to approve the Article 106 notice to the date on which –</p> <p style="padding-left: 20px;">(i) the Board issues a notice under Article 106 by virtue of Article 108(2), or</p> <p style="padding-left: 20px;">(ii) a notice issued under Article 106 is binding under Article 109;</p> <p>(b) Article 108(1)(b) applies, the period beginning with the 29th day after the date on which the Board has sufficient information for it to be satisfied that an insolvency practitioner or former insolvency practitioner ought to have issued a notice under Article 106 to the date on which –</p> <p style="padding-left: 20px;">(i) the Board issues a notice under Article 106 by virtue of Article 108(2), or</p> <p style="padding-left: 20px;">(ii) a notice issued under Article 106 is binding under Article 109.</p>
3. Paragraph 3A	<p>3. The period beginning with –</p> <p>(a) the 29th day after the date on which the Board receives the written estimate of the value of assets and liabilities from the actuary under regulation 2(3)(a)(iii) of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005; or</p> <p>(b) the 15th day after the date on which the Board receives any document requested or information required by a notice given under Article 173(2),</p> <p>whichever is the later, to the date on which the Board issues a validation notice under regulation 2(5) of those Regulations.</p>
4. Paragraph 4	<p>4. In respect of –</p> <p>(a) a scheme failure notice under Article 114(2), the period beginning with the 15th day after the date on which the Board is able to confirm, in accordance with Article 114(5)(b), that a scheme rescue is not possible to the date on which –</p> <p style="padding-left: 20px;">(i) the Board issues a scheme failure notice under Article 114(2), or</p> <p style="padding-left: 20px;">(ii) a withdrawal notice issued under Article 114(3) is binding;</p> <p>(b) a withdrawal notice under Article 114(3), the period beginning with 15th day after the date on which the Board is able to confirm, in accordance with Article 114(5)(a), that a scheme rescue has occurred to the date on which –</p> <p style="padding-left: 20px;">(i) the Board issues a withdrawal notice under Article 114(3), or</p> <p style="padding-left: 20px;">(ii) a scheme failure notice issued under Article 114(3) is binding.</p>
5. Paragraph 7	5. The period beginning with the 15th day after the date on which the terms of the loan have been agreed to the date on which the Board makes a loan under Article 123(2).
6. Paragraph 9	6. Unless Article 128(3) applies, the period beginning two months after the date on which the Board obtains a valuation in accordance with

Column 1 <i>Paragraph of Schedule 8 which specifies the failure</i>	Column 2 <i>Prescribed period</i>
	Article 127 to the date on which the Board gives a copy of the approved valuation to the persons specified in Article 128(2)(b).
7. Paragraph 10	<p>7. In the case of a withdrawal notice under –</p> <p>(a) Article 130(2)(a), the period beginning with the 15th day after the date on which the Board has sufficient information to be satisfied that an eligible scheme was not such a scheme throughout the period prescribed in regulations made under Article 130(1) to the date on which –</p> <p>(i) a notice is issued by the Board in accordance with Article 130(2)(a), or</p> <p>(ii) a withdrawal notice issued under Article 106(2)(b), 114(3), 131 or 132 is binding;</p> <p>(b) Article 131(2)(a), the period beginning with the 15th day after the date on which the Board has sufficient information to be satisfied of the matters specified in Article 131(1)(a) to (d) to the date on which –</p> <p>(i) a notice is issued by the Board in accordance with Article 131(2)(a), or</p> <p>(ii) a withdrawal notice issued under Article 106(2)(b), 114(3), 130 or 132 is binding.</p>
8. Paragraph 11	<p>8. In the case of a withdrawal notice under –</p> <p>(a) Article 132(3), the period beginning with the 15th day after the date on which the Board has sufficient information to reach a determination under Article 132(2) to the date on which –</p> <p>(i) a withdrawal notice is issued by the Board under Article 132(3), or</p> <p>(ii) a withdrawal notice issued under Article 106(2)(b), 114(3), 130, 131 or 132(4) is binding;</p> <p>(b) Article 132(4), the period beginning with the 15th day after the end of the period mentioned in Article 132(2)(b) to the date on which –</p> <p>(i) a withdrawal notice is issued by the Board under Article 132(4), or</p> <p>(ii) a withdrawal notice issued under Article 106(2)(b), 114(3), 130, 131 or 132(3) is binding.</p>
9. Paragraph 12	<p>9. The period beginning two months after the date on which the Board –</p> <p>(a) receives an application under Article 135(1); or</p> <p>(b) where Article 136(9) applies, obtains its own valuation of the assets or liabilities of the scheme,</p> <p>to the date on which the Board issues a determination under Article 136(3).</p>
10. Paragraph 13	<p>10. The period beginning with the 29th day after the date on which the Board receives an application in the form and containing the information prescribed in regulations made under Article 137(4) to the date on which the Board issues a determination notice under Article 137(6).</p>
11. Paragraph 15	<p>11. In a case to which –</p> <p>(a) Article 111 or 112 applies, the period beginning –</p>

Column 1 <i>Paragraph of Schedule 8 which specifies the failure</i>	Column 2 <i>Prescribed period</i>
	<p>(i) two months after the date on which the Board must assume liability for a scheme in accordance with Article 111(2) or 112(2), or</p> <p>(ii) two months after the date on which the first 12 months of the assessment period expires,</p> <p>whichever is the later, to the date on which the Board gives a transfer notice under Article 144(2);</p> <p>(b) Article 136 applies, the period beginning –</p> <p>(i) two months after the date on which the Board is satisfied of the matters set out in Article 136(2) and issues a determination notice under Article 136(3) which becomes binding under Article 136(6), or</p> <p>(ii) two months after the date on which the first 12 months of the assessment period expires,</p> <p>whichever is the later, to the date on which the Board gives a transfer notice under Article 144(2);</p> <p>(c) Article 142 applies, the period beginning –</p> <p>(i) two months after the date on which the Board must assume responsibility for the scheme in accordance with Article 142(1), or</p> <p>(ii) two months after the date on which the first 12 months of the assessment period expires,</p> <p>whichever is the later, to the date on which the Board gives a transfer notice under Article 144(2).</p>
12. Paragraph 15B	12. Unless Article 128(3) applies, the period beginning two months after the date on which the Board obtains a valuation in accordance with Article 144(4A) to the date on which the Board gives a copy of the approved valuation to the persons specified in Article 128(2)(b).
13. Paragraph 16	<p>13. The period beginning with –</p> <p>(a) the 29th day after a transfer notice has been given under Article 144(2); or</p> <p>(b) the 29th day after the date on which entitlement to compensation arises,</p> <p>whichever is the later, to the date on which the Board issues a notice of entitlement to compensation.</p>
14. Paragraph 17	14. The period beginning with the 29th day after the date on which a transfer notice has been given under Article 144(2) to the date on which the date the Board makes payment under Article 147(4)(b).
15. Paragraph 17A	15. The period beginning with the 29th day after the date on which a transfer notice has been given under Article 144(2) to the date on which the Board makes payment under Article 150(2).
16. Paragraph 18	<p>16. In respect of –</p> <p>(a) the initial levy –</p> <p>(i) in a case where the eligible scheme is registered as an occupational pension scheme in accordance with regulations made under section 2 of the Pension Schemes Act, the period beginning with the day after the end of the initial period to the date on which the Board determines the eligibility of the scheme under Article 164(3)(a),</p>

Column 1 <i>Paragraph of Schedule 8 which specifies the failure</i>	Column 2 <i>Prescribed period</i>
	<ul style="list-style-type: none"><li data-bbox="655 322 1334 517">(ii) in a case where, during the initial period, the trustees or managers of the eligible scheme notify the Regulator in accordance with Article 57(2) that the scheme is a registrable scheme, the period beginning with the day after the end of the first financial year following the initial period to the date on which the Board determines the eligibility of the scheme under Article 164(3)(a);<li data-bbox="624 528 963 555">(b) the pension protection levy –<ul style="list-style-type: none"><li data-bbox="655 566 1334 759">(i) in a case where, prior to the financial year in respect of which the levy is imposed, the trustees or managers of the eligible scheme notify the Regulator in accordance with Article 57(2) that the scheme is a registrable scheme, the period beginning with the day after the end of that financial year to the date on which the Board determines the eligibility of that scheme under Article 164(3)(a),<li data-bbox="655 770 1334 958">(ii) in a case where, during the financial year in respect of which the levy is imposed, the trustees or managers of the eligible scheme notify the Regulator in accordance with Article 57(2) that the scheme is a registrable scheme, the period beginning with the day after the end of the next financial year to the date on which the Board determines the eligibility of that scheme under Article 164(3)(a).

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision in respect of certain reviewable matters specified in Schedule 8 to the Pensions (Northern Ireland) Order 2005 (“the Order”).

The Board of the Pension Protection Fund (“the Board”) is established by section 107 of the Pensions Act 2004 (c. 35) to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer and where the pension scheme is underfunded at a certain level.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 and the Schedule to these Regulations provide that the references to specified failures by the Board in Schedule 8 to the Order are to be construed as references to failures by the Board to do the act or make a determination within the period prescribed in the Schedule to these Regulations.

Regulation 3 modifies Schedule 8 to the Order by inserting two further reviewable matters in respect of partially guaranteed schemes.

Regulation 4 amends Schedule 8 to the Order by inserting two further reviewable matters in respect of payments due under Article 150(2) of the Order and the issue of, or failure to issue, a valuation notice under regulation 2(5) of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005.

Articles 188(2) and (4) and 280(3) of the Order, under which these Regulations are made, were brought into operation, for the purpose of authorising the making of regulations, on 25th February 2005 and for all other purposes on 6th April 2005 and 8th March 2005 respectively, by virtue of the Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005 No. 48 (C. 5)).

As these Regulations are made before the end of the period of six months beginning with the coming into operation of the provisions of the Order by virtue of which they are made, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(c) of that Article.

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