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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 194**

**PENSIONS**

**The Pension Protection Fund and Pensions Regulator  
(Amendment) Regulations (Northern Ireland) 2005**

*Made* - - - - - *5th April 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), 34(1)(b), 48(1)(b), 106(5)(a) and (8), 110(1)(b), 119(4), 123(6), 135(4)(b)(ii), 189(1), (2) and (5)(b), (d) and (e), 280(1)(b) and (2)(b) and 287(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 and commencement**

1. These Regulations may be cited as the Pension Protection Fund and Pensions Regulator (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

**Amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations**

2.—(1) The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005(b) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(3)(a) and (b) (citation, commencement and interpretation) the words “or category” shall be omitted.

(3) In regulations 10(2)(a) (reconsideration and duty to assume responsibility for a scheme following reconsideration), 25(2)(a) (reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities), 40(2)(b) (reconsideration) and 56(2)(b) (reconsideration) in the substituted paragraph (2)(b) for “paragraph (2) of Article 135” there shall be substituted “paragraph (2) or (3) of Article 135”.

(4) In regulations 29(2)(d)(ii) (notification of insolvency events, confirmation of scheme status etc.), 32(d)(ii) (Board’s duty where application or notification received under Article 113), 46(2)(d)(ii) (notification of insolvency events, confirmation of scheme status etc.) and 49(d)(ii) (Board’s duty where application or notification received under Article 113) before “part” there shall be inserted “segregated”.

(5) In regulation 41 (closed schemes and requirements to wind up schemes with sufficient assets) for the heading there shall be substituted “Closed schemes, requirement to wind up

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(a) S.I. 2005/255 (N.I. 1); 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  
(b) S.R. 2005 No. 91

schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets”.

(6) In regulation 57 (closed schemes and requirement to wind up schemes with sufficient assets) for the heading there shall be substituted “Closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets”.

(7) In regulation 62(3) for sub-paragraph (c) there shall be substituted –

“(c) in paragraph (4)(e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and”.

### **Amendment of the Pension Protection Fund (Entry Rules) Regulations**

**3.**—(1) The Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005(a) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (schemes which are not eligible schemes) –

(a) paragraph (1)(e) shall be omitted; and

(b) in paragraph (1)(f), for “but which is not” there shall be substituted “but which is neither a tax approved scheme nor”.

(3) In regulation 9(1) (confirmation of scheme status by insolvency practitioner) for “the scheme” where it first appears, there shall be substituted “an occupational pension scheme”.

(4) In regulation 13(1) (confirmation of scheme status – binding notices) –

(a) for “a scheme” there shall be substituted “an occupational pension scheme”; and

(b) for “practitioners” there shall be substituted “practitioner’s”.

(5) In regulation 16 (restrictions on winding up, discharge of liabilities etc.) –

(a) in paragraph (1)(a) and (b), for “trustees or managers of the scheme”, in each place where it occurs, there shall be substituted “trustees or managers of an eligible scheme”; and

(b) in paragraph (2), for “a scheme”, in each place where it occurs, there shall be substituted “an eligible scheme”.

(6) In regulation 18 (loans to pay scheme benefits) –

(a) in paragraph (3), in paragraph (a) of the definition of “reference banks”, for “deposits;” there shall be substituted “deposits, and”; and

(b) in paragraph (4), for “Paragraph (3)(b)” there shall be substituted “In paragraph (3), paragraph (b) of the definition of “reference banks””.

(7) In regulation 24(1)(b)(ii) (applications for reconsideration) for “on any day” there shall be substituted “with any day”.

### **Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations**

**4.**—(1) The Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005(b) shall be amended in accordance with paragraphs (2) to (4).

(2) For regulation 19 there shall be substituted the following regulation –

#### **“Notice of decision to reconsider other than on an application**

**19.**—(1) Where the Board decides that the Reconsideration Committee should reconsider a reviewable matter and give a reconsideration decision under regulation 18(1) it must notify the Reconsideration Committee.

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(a) S.R. 2005 No. 126

(b) S.R. 2005 No. 138

(2) Where the Reconsideration Committee decides to reconsider a reviewable matter otherwise than on an application it must notify the Board and any interested person.

(3) For the purposes of paragraph (2) an interested person means a person who, in the opinion of the Board, may be materially affected by the reconsideration decision or, as the case may be, a representative of that person appointed under regulation 27.”.

(3) In regulations 20(1)(b) (provision of written representation) and 25(3) (notice of a reconsideration decision) for “regulation 19(1)” there shall be substituted “regulation 19(2)”.

(4) In regulation 22(3)(a) (time for giving a reconsideration decision) –

(a) for “the Board” there shall be substituted “the Reconsideration Committee”;

(b) for “regulation 19(1)” there shall be substituted “regulation 19(2)”;

(c) for “review decision” there shall be substituted “reconsideration decision”.

### **Amendment of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations**

**5.—**(1) The Pensions Regulator (Contribution Notices and Restoration Orders) Regulations (Northern Ireland) 2005<sup>(a)</sup> shall be amended in accordance with paragraph (2).

(2) In regulation 2 –

(a) paragraph (a) shall be omitted; and

(b) in paragraph (f) for the words from “which is not” to the end, there shall be substituted –

“which –

(i) has never been a tax approved scheme or registered for tax purposes, and

(ii) is not a relevant statutory scheme within the meaning of section 611A of the 1988 Act (definition of relevant statutory scheme);”.

Sealed with the Official Seal of the Department for Social Development on 5th April 2005.

(L.S.)

*John O'Neill*

A senior officer of the Department for Social Development

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<sup>(a)</sup> S.R. 2005 No. 173

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make the following amendments and corrections:

Regulation 2 makes minor clarificatory amendments to the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 and corrects defective references;

Regulation 3 amends the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 to provide that schemes are not eligible schemes if they are neither tax approved nor relevant statutory schemes. It also makes further minor clarificatory amendments and corrects a defective reference;

Regulation 4 amends the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005 to make provision for where the Board of the Pension Protection Fund decides that the Reconsideration Committee should reconsider a reviewable matter. It also makes further minor amendments including those consequential on the substituted regulation 19; and

Regulation 5 amends the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations (Northern Ireland) 2005 to provide that schemes are prescribed schemes if they have never been tax approved schemes or registered for tax purposes and are not relevant statutory schemes.

The Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005 No. 48 (C. 5)) provides for the coming into operation of some of the enabling provisions under which these Regulations are made as follows –

Articles 2(5)(a), 34(1)(b), 48(1)(b), 106(5)(a) and (8), 119(4), 123(6), 135(4)(b)(ii), 189(1), (2) and (5)(b), (d) and (e) on 25th February 2005 for the purpose only of authorising the making of regulations and on 6th April 2005 for all other purposes;

Articles 110(1)(b) on 25th February 2005 for the purpose only of authorising the making of regulations and on 1st April 2005 for all other purposes;

Article 280(1)(b) on 25th February 2005 for the purpose only of authorising the making of regulations and on 8th March 2005 for all other purposes;

Article 280(2) on 8th March 2005.

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 Pensions (Northern Ireland) Order 2005 by virtue of which they are made, the requirement to consult under Article 289(1) of that Order does not apply by virtue of paragraph (2)(c) of that Article.

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