
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 381

The Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

(2) In these Regulations, any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 2005 bearing that number.

(3) In these Regulations—

“the 1988 Act” means the Income and Corporation Taxes Act 1988⁽¹⁾;

“the 2004 Act” means the Finance Act 2004⁽²⁾;

“accrued rights” has the meaning given in Article 121(2) of the 1995 Order;

“application date” means the date on which an application was made in accordance with the requirements of Article 165(1)(d) and (e);

“approved scheme” means a scheme which is approved or was formerly approved under section 590 or 591 of the 1988 Act⁽³⁾ (conditions for approval of retirement benefit schemes and discretionary approval respectively), or in respect of which an application for such approval has been duly made and which has not yet been determined;

“assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;

“beneficiary” means a person, other than a member of the scheme, who is entitled to the payment of benefits under the scheme;

“ear-marked scheme” means a scheme—

- (a) under which all of the benefits, other than death benefits, are money purchase benefits;
- (b) all of the benefits are secured by one or more policies of insurance, or annuity contracts, and
- (c) such policies, or contracts, are specifically allocated to the provision of benefits for an individual member, or any other person, who has a right to benefits under the scheme;

(1) 1988 c. 1

(2) 2004 c. 12

(3) Section 590 was amended by paragraph 18 of Schedule 3 to the Finance Act 1988 (c. 39), paragraph 3 of Schedule 6 and Part IV of Schedule 17 to the Finance Act 1989 (c. 26), sections 34 and 36(2) of, and Part V of Schedule 19 to, the Finance Act 1991 (c. 31) and paragraphs 2 and 18(1) and (3) of Schedule 10 to the Finance Act 1999 (c. 16) and section 591 was amended by paragraph 6 of Schedule 13 to the Finance Act 1988, section 107 of, and Part V of Schedule 26 to, the Finance Act 1994 (c. 9), sections 59(2) and 60(1) of the Finance Act 1995 (c. 4) and paragraphs (3) and 18(1) and (3) of Schedule 10 to the Finance Act 1999. Sections 590 and 591 are repealed by Part 3 of Schedule 42 to the Finance Act 2004 from 6th April 2006

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“the Entry Rules Regulations” means the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005⁽⁴⁾;

“fraud compensation provisions” means Articles 165 to 169;

“guaranteed minimum pension” has the meaning given in section 4(2) of the Pension Schemes Act⁽⁵⁾;

“the loss” means the reduction falling within Article 165(1)(b);

“the Multi-employer Regulations” means the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005⁽⁶⁾;

“multi-employer scheme” means a scheme in relation to which there is more than one employer;

“normal pension age” has the meaning given by section 175 of the Pension Schemes Act;

“partially guaranteed scheme” means an eligible scheme in respect of which a relevant public authority has—

- (a) given a guarantee in relation to—
 - (i) any part of the scheme;
 - (ii) any benefits payable under the scheme rules, or
 - (iii) any members of the scheme, or
- (b) made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities;

“PPF valuation” means a scheme valuation obtained under Article 127;

“public body” means a government department or any non-departmental public body established by a statutory provision to perform functions conferred on it under that statutory provision or any other statutory provision;

“registered pension scheme” has the meaning given in section 150(2) of the 2004 Act;

“relevant benefits” has the meaning given in section 612(1) of the 1988 Act;

“relevant insurer” means, in relation to an annuity contract or policy of insurance under which scheme benefits are or were secured, the person with whom the contract is made;

“relevant public authority” has the meaning given in Article 280(4);

“relevant statutory scheme” has the meaning given in section 611A of the 1988 Act⁽⁷⁾;

“scheme” means an occupational pension scheme;

“segregated part” means in relation to—

- (a) a non-segregated scheme, a part of the scheme which is created when the rules of the scheme require the trustees or managers, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the liabilities of the scheme to provide pensions or other benefits to or in respect of the pensionable service of members of the scheme by reference to that employer;
- (b) a multi-employer section of a segregated scheme, a part of the section which is created when the rules of the scheme relating to that section require the trustees or managers

(4) S.R. 2005 No. 126; relevant amending regulations are S.R. 2005 No. 364

(5) Section 4(2) was amended by paragraph 16(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 94 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(6) S.R. 2005 No. 91; relevant amending regulations are S.R. 2005 No. 357

(7) Section 611A was inserted by paragraph 15 of Schedule 6 to, the Finance Act 1989 and amended by paragraph 5 of Schedule 5 to the Finance Act 1999. Section 611A is repealed by Part 3 of Schedule 42 to the Finance Act 2004 from 6th April 2006

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of the section, in circumstances where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of members of the section by reference to that employer;

“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,

and non-segregated scheme shall be read accordingly;

“stakeholder pension scheme” means a stakeholder pension scheme within the meaning of Article 3 of the 1999 Order which is established under a trust;

“unsecured part” means any part of a partially guaranteed scheme—

- (a) in respect of which no guarantee has been given by a relevant public authority, and
- (b) which relates to benefits payable under the scheme in respect of which—
 - (i) no such guarantee has been given, and
 - (ii) no other arrangements as are mentioned in Article 280(3)(b) have been made.

(4) In these Regulations “employer”, in relation to—

- (a) a scheme which is not a multi-employer scheme, or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the 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.

(5) In these Regulations “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order⁽⁸⁾ (deficiencies in the assets) became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the

⁽⁸⁾ Article 75 was amended by Article 248 of the Pensions (Northern Ireland) Order 2005

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- value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
- (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid;
- (ii) condition B is that—
- (aa) such a debt became due;
- (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
- (cc) the reduced amount has been paid in full;
- (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
- (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.

Commencement Information

II Reg. 1 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Prescribed schemes

2.—(1) For the purposes of Article 165(1) the Board shall not make a fraud compensation payment in respect of a scheme if it is—

- (a) a scheme which has less than two members;
- (b) a scheme which is made under Article 9 of the Superannuation (Northern Ireland) Order 1972⁽⁹⁾ (superannuation of persons employed in local government service, etc.) which provides pensions to persons mentioned in paragraph (1)(a) of that Article;
- (c) a scheme which is established under section 48 of the Northern Ireland Act 1998⁽¹⁰⁾ (pensions of members), or which was established under Part II of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965⁽¹¹⁾ or Article 3 of the Assembly Pensions (Northern Ireland) Order 1976⁽¹²⁾;
- (d) a scheme—
- (i) the only benefits provided by which are death benefits, and
- (ii) under the provisions of which no member has accrued rights;
- (e) a scheme which—
- (i) before 6th April 2006 provides relevant benefits but is neither an approved scheme nor a relevant statutory scheme, or

⁽⁹⁾ S.I. 1972/1073 (N.I. 10)

⁽¹⁰⁾ 1998 c. 47

⁽¹¹⁾ 1965 c. 18 (N.I.)

⁽¹²⁾ S.I. 1976/1779

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- (ii) on or after 6th April 2006 is not a registered pension scheme;
- (f) a scheme with fewer than 12 members where all the members are trustees of the scheme and either—
 - (i) the provisions of the scheme provide that all decisions which fall to be made by the trustees are made by unanimous agreement by the trustees who are members of the scheme, or
 - (ii) the scheme has a trustee who is independent in relation to the scheme for the purposes of Article 23 of the 1995 Order⁽¹³⁾ (power to appoint independent trustees) and is registered in the register maintained by the Authority in accordance with regulations made under paragraph (4) of that Article;
- (g) a scheme with fewer than 12 members where a company is a trustee of the scheme, and all of the members of the scheme are directors of the company and either—
 - (i) the provisions of the scheme provide that any decision made by the company in its capacity as trustee are made by the unanimous agreement of all the directors who are members of the scheme, or
 - (ii) one of the directors is a trustee who is independent in relation to the scheme for the purposes of Article 23 of the 1995 Order and is registered in the register maintained by the Authority in accordance with regulations made under paragraph (4) of that Article;
- (h) a scheme with such a superannuation fund as is mentioned in section 615(6) of the 1988 Act⁽¹⁴⁾ (exemption from tax in respect of certain pensions);
- (i) a public service pension scheme under the provisions of which there is no requirement for assets related to the intended rate or amount of benefit under the scheme to be set aside in advance (disregarding requirements relating to additional voluntary contributions);
- (j) a scheme in respect of which any relevant public authority has given a guarantee or made any other arrangements for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities;
- (k) the scheme established by the Salvation Army Act 1963⁽¹⁵⁾.

(2) Where a section of a segregated scheme or a segregated part is treated as if it were a separate scheme which falls within paragraph (1)(a) to (k), it is a scheme for the purpose of Article 165(1) (a) to which a fraud compensation payment cannot be made.

Commencement Information

I2 Reg. 2 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Relevant offences

3. For the purpose of Article 165(1)(b) (reduction of scheme assets attributable to a prescribed offence), a prescribed offence is any offence involving dishonesty, and for these purposes dishonesty shall include an intent to defraud.

⁽¹³⁾ Article 23 was substituted by Article 32(3) of the Pensions (Northern Ireland) Order 2005

⁽¹⁴⁾ Section 615(6) was amended by paragraph 11 of Schedule 10 to the Finance Act 1999 and has effect in relation to trust based occupational pension schemes established in respect of persons wholly employed in a trade or undertaking outside of the United Kingdom

⁽¹⁵⁾ 1963 c. xxxii

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Commencement Information

I3 Reg. 3 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Employers who are unlikely to continue as a going concern

4.—(1) For the purpose of Article 165(4)(c) (prescribed requirements to be met where an employer is unlikely to continue as a going concern) the prescribed requirements are that the employer is either—

- (a) a public body—
 - (i) in relation to which it is not possible for an insolvency event to occur, and
 - (ii) which is not the employer in relation to a scheme in respect of which a relevant public authority has either—
 - (aa) given a guarantee in relation to any part of the scheme, any benefits payable under the scheme or any member of the scheme, or
 - (bb) made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities;
- (b) a charity which is not a company or other body corporate, or
- (c) a trade union within the meaning of Article 3(1) of the Industrial Relations (Northern Ireland) Order 1992(**16**) in relation to which it is not possible for an insolvency event to occur.

Commencement Information

I4 Reg. 4 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Applications for fraud compensation payments

5.—(1) An application for fraud compensation payments under Article 165(1)(d) must—

- (a) be made in writing by a person specified in paragraph (2), and
 - (b) must contain all of the information specified in paragraph (3), other than any such information which the Board already has and in such a case the application need not contain that information.
- (2) Subject to paragraph (5), an application must be made by—
- (a) the trustees or managers of the scheme, or their representative;
 - (b) a person connected with the administration of, or the provision of benefits under, the scheme, or his representative, or
 - (c) a member of, or beneficiary under, the scheme, or his representative.
- (3) An application must contain—
- (a) the name and address of the person making the application and, where relevant, of the person on behalf of whom the application is made;
 - (b) the name, address and pension scheme registration number of the scheme;

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- (c) the name and address, or location of a place of business, of the employer in relation to the scheme;
 - (d) details of the type of benefits provided;
 - (e) the date of the qualifying insolvency event referred to in Article 165(2)(a) or the date an employer was unlikely to continue as a going concern;
 - (f) the date the loss was discovered, and
 - (g) any additional information the Board may consider appropriate in the circumstances.
- (4) In the case of a stakeholder pension scheme paragraph (3)(c) and (e) shall not apply where there is no employer in relation to the scheme.
- (5) In the case of—
- (a) a section of a segregated scheme, or a segregated part, applications must be made by—
 - (i) the trustees or managers with ultimate responsibility for the section, or the segregated part, or their representative;
 - (ii) a person connected with the administration of, or provision of benefits under the section, or the segregated part, or his representative, or
 - (iii) a member of, or beneficiary under the section, or the segregated part, or his representative;
 - (b) an unsecured part of a partially guaranteed scheme, for the purposes of paragraph (2)(c), an application may be made only by a member or beneficiary of the unsecured part or his representative.

Commencement Information

I5 Reg. 5 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Confirmation of scheme status

6.—(1) This regulation applies where the Board has given a notice (“scheme status notice”) under Article 166(2) (scheme rescue not possible or has occurred).

(2) Where a scheme status notice has become binding and the Board gives a notice under Article 166(5) (“the Board notice”) to that effect, that notice must be in writing and must contain the following information—

- (a) the name or type of Board notice;
- (b) the date of issue;
- (c) the name, address and pension scheme registration number of the scheme in respect of which the notice is issued;
- (d) the name of the employer in relation to the scheme in respect of which the notice is issued;
- (e) the date on which the scheme status notice was issued;
- (f) a statement that the scheme status notice has become binding, and
- (g) whether the Board notice contains any restricted information and, if so, the nature of the restriction.

Commencement Information

I6 Reg. 6 in operation at 1.9.2005, see [reg. 1\(1\)](#)

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Amount of fraud compensation

7.—(1) For the purpose of Article 168(4) (determination of amount of fraud compensation payment) the amount of any fraud compensation payments shall be calculated in accordance with this regulation and, subject to Article 168(3) (maximum payments) and Article 169 (interim payments), must not exceed this amount.

(2) Subject to paragraphs (3) and (5), the amount of the fraud compensation payments shall be calculated in accordance with the formula $P - Q$ where—

- (a) P is—
 - (i) the value of the assets—
 - (aa) as stated in the audited scheme accounts, or as the case may be the PPF valuation, which immediately precede the loss, and
 - (bb) adjusted by the relevant person to take account of any alterations in their value between the date which immediately precedes the loss and the application date;
 - (ii) if there are no such audited accounts, or PPF valuation, the value of the assets—
 - (aa) on such date as immediately precedes the loss;
 - (bb) as reported by an accountant, and
 - (cc) adjusted by an accountant so as to take account of any alterations in their value between the date which immediately precedes the loss and the application date, and
- (b) Q is the value of the assets immediately before the application date, as reported by an accountant.

(3) In the case of an ear-marked scheme, the amount of the fraud compensation payments shall be calculated in accordance with the formula $P + R - Q$ where—

- (a) P is the value of the assets—
 - (i) on such date as immediately precedes the loss;
 - (ii) as certified by the relevant insurer, and
 - (iii) adjusted by the relevant insurer to take account of any alterations in their value between the date which immediately precedes the loss and the application date;
- (b) R is the value of the assets—
 - (i) constituting the loss;
 - (ii) on such date as immediately precedes the loss;
 - (iii) as certified by the relevant insurer, and
 - (iv) adjusted by the relevant insurer to take account of any alterations in their value between the date which immediately precedes the loss and the application date, and
- (c) Q is the value of the assets immediately before the application date, as certified by the relevant insurer.

(4) For the purpose of paragraphs (2) and (3)—

- (a) any adjustments made to take account of alterations in the value of the assets shall—
 - (i) include alterations resulting from—
 - (aa) investments, gains and losses;
 - (bb) payments made and received by the scheme, in accordance with the rules of the scheme, and

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- (ii) not include alterations resulting from the loss;
- (b) a relevant person means—
 - (i) an accountant, or
 - (ii) in the case of a PPF valuation, a person prescribed by regulations made under Article 127(11)(a)(ii) (valuation of assets and liabilities).
- (5) In the case of—
 - (a) a section of a segregated scheme or a segregated part, paragraphs (2) and (3) shall apply to the assets of the section or part to which the application for fraud compensation related;
 - (b) an unsecured part of a partially guaranteed scheme, paragraphs (2) and (3) shall apply to the assets of the unsecured part to which the application for fraud compensation related.

Commencement Information

I7 Reg. 7 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Interim payments

8.—(1) The prescribed liabilities referred to in Article 169(1)(a)(ii) (liabilities the trustees or managers would not otherwise be able to meet) are—

- (a) any liability for payment of pensions which has arisen at the application date;
 - (b) any liability which arises between the application date and the settlement date for payment of—
 - (i) guaranteed minimum pensions;
 - (ii) pensions, other than guaranteed minimum pensions, payable to persons reaching normal pension age;
 - (iii) pensions payable to beneficiaries;
 - (iv) ill-health retirement pensions;
 - (c) any liability for payment of any monthly pension that would, but for the loss, have been payable in respect of money purchase benefits prior to the settlement date, and for these purposes the liability is the approximate monthly value of the pension;
 - (d) payment of lump sums in connection with terminal illness, and for these purposes a person shall be regarded as suffering from a terminal illness where his life expectancy is less than one year.
- (2) Paragraph (1) shall not apply to any liability for payment of a lump sum derived from commutation of a pension.
- (3) Interim payments under Article 169 shall be determined so as—
- (a) to take into account any—
 - (i) interim payments made previously, where those payments were greater or smaller than the liabilities under paragraph (1) in respect of which those payments were made;
 - (ii) amount received by an eligible scheme from the Board under Article 123 (loans to pay scheme benefits);
 - (b) not to exceed the amount required to enable the trustees or managers of the scheme, prior to the settlement date, to meet such liabilities as are specified in paragraph (1).

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(4) For the purpose of Article 169(3) (recovery of interim payments) all or part of an interim payment may not be recovered where such recovery would cause any pensions in payment to be reduced.

Commencement Information

I8 Reg. 8 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Effect of determinations under Article 167

9.—(1) Paragraph (2) shall apply where—

- (a) a settlement date is determined by the Board under Article 167(2) (recovery of value), or
- (b) a determination is made by the Board under Article 167(4).

(2) A determination referred to in paragraph (1) is not binding until—

- (a) the period within which the determination may be reviewed under regulations made under Chapter 6 of Part III of the Pensions (Northern Ireland) Order 2005 (reviews, appeals and maladministration) has expired, and
- (b) if the determination is so reviewed—
 - (i) the review and any reconsideration;
 - (ii) any reference to the PPF Ombudsman in respect of the determination, and
 - (iii) any appeal against his determination or directions,
 has been finally disposed of and the determination has not been revoked, varied or substituted.

Commencement Information

I9 Reg. 9 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Hybrid schemes

10.—(1) The fraud compensation provisions shall be modified in their application to a hybrid scheme so that they shall be read as if—

- (a) in Article 168 (fraud compensation payments) after paragraph (2) there were inserted the following paragraph—

“(2A) In the case of a scheme which is a hybrid scheme, the trustees or managers must, where the reduction (or, if there has been more than one reduction, the aggregate amount of the reductions) relates to a part or section of the hybrid scheme, add fraud compensation payments to the assets of that section or part of the scheme.”;
- (b) in Article 169(2) (interim payments) after paragraph (2) there were inserted the following paragraph—

“(2A) In the case of a scheme which is a hybrid scheme, the trustees or managers must, where the reduction (or, if there has been more than one reduction, the aggregate amount of the reductions) relates to a part or section of the hybrid scheme, add amounts paid under this Article to the assets of that section or part of the scheme.”.

Commencement Information

I10 Reg. 10 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Partially guaranteed schemes

11. The fraud compensation provisions (except Articles 165(4) and 166) shall be modified in their application to partially guaranteed schemes so that they shall be read as if—

- (a) in Article 165—
 - (i) in paragraph (1)—
 - (aa) for “an occupational pension scheme” there were substituted “a partially guaranteed scheme”, and
 - (bb) in sub-paragraph (b) for “the scheme” there were substituted “the unsecured part”;
 - (ii) after paragraph (1) there were inserted the following paragraph—

“(1A) For the purposes of Article 165 (except paragraph (4)) and Articles 167 to 169 “unsecured part” means any part of a partially guaranteed scheme—

 - (a) in respect of which no guarantee has been given by a relevant public authority, and
 - (b) which relates to benefits payable under the scheme in respect of which—
 - (i) no such guarantee has been given, and
 - (ii) no other arrangements referred to in Article 280(3)(b) have been made.”, and
 - (iii) in paragraph (7) for “a scheme” there were substituted “an unsecured part” and for “the scheme” there were substituted “the unsecured part”;
- (b) in Article 167(3) for “the value of the assets of the scheme” there were substituted “the value of the assets of the unsecured part”;
- (c) in Article 168 after paragraph (2) there were inserted the following paragraph—

“(2A) Fraud compensation payments must be added to the assets of the unsecured part of a partially guaranteed scheme to which the amount of the reduction (or, if there has been more than one reduction, the aggregate amount of the reductions) referred to in Article 165(1)(b) relates.”, and
- (d) in Article 169—
 - (i) in paragraph (1) for “an occupational pension scheme” there were substituted “a partially guaranteed scheme”, and
 - (ii) after paragraph (2) there were inserted the following paragraph—

“(2A) Amounts payable under this Article must be added to the assets of the unsecured part of a partially guaranteed scheme to which the amount of the reduction (or, if there has been more than one reduction, the aggregate amount of the reductions) referred to in Article 165(1)(b) relates.”.

Commencement Information

I11 Reg. 11 in operation at 1.9.2005, see [reg. 1\(1\)](#)

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Partially approved schemes

12.—(1) For the purpose of this regulation, a partially approved scheme means—

- (a) before 6th April 2006, a scheme which is not an approved scheme but contains a section which, by virtue of section 611(3) of the 1988 Act⁽¹⁷⁾ (definition of retirement benefit schemes), is treated by the Commissioners of Her Majesty’s Revenue and Customs as an approved scheme (“the approved section”);
- (b) on or after 6th April 2006, a scheme which is not a registered pension scheme but contains a section which, by virtue of paragraph 1(2) of Schedule 36 to the 2004 Act (deemed registration of existing schemes), is treated by the Commissioners of Her Majesty’s Revenue and Customs as a registered scheme (“the registered section”).

(2) The approved section or, as the case may be, the registered section of a partially approved scheme shall be treated as if it were a separate scheme for the purpose of these Regulations.

Commencement Information

I12 Reg. 12 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Stakeholder pension schemes

13.—(1) In the case of a stakeholder pension scheme which does not have an employer in relation to the scheme, the fraud compensation provisions shall be modified in their application to such a scheme so that the following provisions shall be treated as if they do not apply—

- (a) Article 165(1)(c), (2) to (4), (6)(a), (8) and (9) (insolvency of employer);
- (b) in Article 165(10), the definition of “the relevant event”;
- (c) Article 166 (Board’s duties where employer unlikely to continue as a going concern), and
- (d) Article 168(5)(d) (Board’s duty to give a notice to the insolvency practitioner or the employer).

Commencement Information

I13 Reg. 13 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Segregated schemes: single employer sections

14.—(1) This paragraph 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 the employer in relation to that section;
- (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 in regulation 7 of the Entry Rules Regulations⁽¹⁸⁾ (applications and notifications to the Board), or

⁽¹⁷⁾ Section 611(3) was amended by paragraph 9 of Schedule 10 to the Finance Act 1999 and paragraph 4 of Schedule 13 and Part II of Schedule 40 to the Finance Act 2000 (c. 17). Section 611(3) is repealed by Part 3 of Schedule 42 to the Finance Act 2004 from 6th April 2006

⁽¹⁸⁾ Regulation 7 was amended by regulation 2(5) of [S.R. 2005 No. 364](#)

- (c) the employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 4 (employers who are unlikely to continue as a going concern).
- (2) The fraud compensation provisions shall be modified in their application to a section of a segregated scheme to which paragraph (1) applies so that they shall be read as if—
 - (a) references to “an occupational pension scheme” were references to a section of a segregated scheme in circumstances where that section, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with Article 165(1);
 - (b) references to “an eligible scheme” were references to a section of a segregated scheme, in circumstances where that section, if it were a scheme, would be an eligible scheme;
 - (c) except as otherwise provided in this regulation, references to—
 - (i) “the scheme” were to “the section”;
 - (ii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the section”;
 - (d) in Article 165—
 - (i) in paragraph (2)—
 - (aa) in sub-paragraph (b) for “in relation to the scheme” there were substituted “in relation to the relevant section”, and
 - (bb) in sub-paragraph (c)(ii) after “the scheme failure notice” there were inserted “in relation to the relevant section”;
 - (ii) in paragraph (3)(b) after “the scheme failure notice” there were inserted “in relation to the relevant section”;
 - (iii) in paragraph (7) for “a scheme” there were substituted “a section”;
 - (iv) in paragraph (8) for “the employer” there were substituted “the employer in relation to the relevant section”, and
 - (v) in paragraph (9)(a) and (c) for “a scheme” there were substituted “a section”;
 - (e) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to a section of the segregated scheme”;
 - (ii) in paragraph (2) after “scheme rescue”, in both places where it occurs, there were inserted “in relation to the relevant section”, and
 - (iii) after paragraph (3) there were inserted the following paragraph—
 - “(3A) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (3) they must send a copy of the notice, as soon as practicable, to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the segregated scheme.”, and
 - (f) in Article 168 after paragraph (5) there were added the following paragraph—
 - “(6) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (5) they must send a copy of the notice, as soon as practicable, to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the segregated scheme.”.

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Commencement Information

I14 Reg. 14 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Segregated schemes: multi-employer sections without requirement for partial wind up on withdrawal of participating employer

15.—(1) This paragraph applies to a multi-employer section of a segregated scheme (“multi-employer section”) the rules of which do not provide for the partial winding up of the section when an employer in relation to the section ceases to participate in the scheme.

(2) The fraud compensation provisions shall be modified in their application to a multi-employer section to which paragraph (1) applies so that they shall be read as if—

- (a) references to “an occupational pension scheme” were references to a multi-employer section of a segregated scheme in circumstances where that section, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with Article 165(1);
- (b) references to “an eligible scheme” were references to a multi-employer section of a segregated scheme in circumstances where that section, if it were a scheme, would be an eligible scheme;
- (c) except as otherwise provided in this regulation, references to—
 - (i) “the scheme” were to “the section”;
 - (ii) “the employer” were to “an employer in relation to the section”;
 - (iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the section”;
- (d) in Article 165—
 - (i) in paragraph (2)—
 - (aa) for sub-paragraph (a) there were substituted the following sub-paragraph—
 - “(a) a qualifying insolvency event has occurred in relation to an employer in relation to a multi-employer section of the segregated scheme.”;
 - (bb) in sub-paragraph (b) for “the scheme” there were substituted “the relevant section of the scheme”;
 - (cc) in sub-paragraph (c)(i) for “the insolvency event” there were substituted “the first insolvency event in relation to the section”, and
 - (dd) in sub-paragraph (c) for head (ii) there were substituted the following head—
 - “(ii) ending immediately before the issuing of the scheme failure notice in relation to the relevant section of the scheme under Article 106(2)(a) and that notice has become binding.”;
 - (ii) in paragraph (3)(b) for “in relation to the scheme” there were substituted “in relation to a multi-employer section of the segregated scheme”;
 - (iii) in paragraph (4) for sub-paragraph (b) there were substituted the following sub-paragraph—
 - “(b) in relation to a multi-employer section of the segregated scheme—

- (i) an employer is unlikely to continue as a going concern at a time when all other employers in relation to that section—
 - (aa) have had an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) are unlikely to continue as a going concern, or
- (ii) a person, or persons, are no longer an employer in relation to that section at a time when all other employers in relation to that section—
 - (aa) have had an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) are unlikely to continue as a going concern, and at least one insolvency event occurred on or after 6th April 2005 or at least one employer was unlikely to continue as a going concern, on or after that date,”;
- (iv) in paragraph (4)(c) for “the employer” there were substituted “those employers who are unlikely to continue as a going concern”;
- (v) in paragraph (7) for “a scheme” there were substituted “a section”;
- (vi) in paragraph (8)—
 - (aa) for “the employer” there were substituted “an employer in relation to the relevant section”, and
 - (bb) after sub-paragraph (a) there were inserted the following sub-paragraph—
 - “(aa) it occurs—
 - (i) simultaneously in relation to more than one of the employers in relation to the section at a time when those employers are the only employers in relation to the section, or
 - (ii) in relation to an employer in relation to the section at a time when all other employers in relation to the section have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the section under Article 113(1A), as modified by Part III of the Multi-employer Regulations(19), or a notice given by the Board in respect of them under Article 113(5) by virtue of a notice given by the Regulator under Article 113(4)(a), and”, and
- (vii) in paragraph (9)(a) and (c) for “a scheme” there were substituted “a section”;
- (e) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to a multi-employer section of a segregated scheme”;
 - (ii) in paragraph (2) after “scheme rescue”, in both places where it occurs, there were inserted “in relation to the relevant section”;

(19) Part III was substituted by regulation 3(3) of [S.R. 2005 No. 357](#)

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(iii) in paragraph (3)(d) for “the employer”, in both places where it occurs, there were substituted “each employer”, and

(iv) after paragraph (3) there were inserted the following paragraph—

“(3A) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (3) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”, and

(f) in Article 168—

(i) in paragraph (5)(d) for “the employer”, in both places where it occurs, there were substituted “each employer”, and

(ii) after paragraph (5) there were added the following paragraph—

“(6) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”.

Commencement Information

I15 Reg. 15 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Segregated schemes: non-segregated multi-employer sections of segregated schemes with requirement for partial wind up on withdrawal of participating employer

16.—(1) This paragraph applies to a non-segregated multi-employer section of a segregated scheme in circumstances where—

- (a) an insolvency event occurs in relation to an employer in relation to that section;
- (b) the trustees or managers of the scheme become aware that an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 7 of the Entry Rules Regulations (applications and notifications to the Board), or
- (c) an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 4 (employers who are unlikely to continue as a going concern).

(2) Where paragraph (3) applies to that section of a segregated scheme—

- (a) the segregation requirements shall be deemed to have been triggered in relation to an employer immediately after the occurrence of an event described in paragraph (1)(a), (b) or (c), and
- (b) a segregated part of the section shall be deemed to have been created for and in respect of any period after the occurrence of an event described in paragraph (1)(a), (b) or (c) where—
 - (i) a withdrawal event within the meaning of Article 133(2), or
 - (ii) a cessation event in relation to a notice referred to in Article 165(9)(b)(iv),
 has not occurred in relation to the segregated part.

(3) This paragraph applies where the segregation requirement in the scheme rules would be triggered in relation to the section when an employer in relation to the section ceases to participate in the scheme.

(4) In this regulation—

“non-segregated multi-employer section” means a multi-employer section of a segregated scheme where the rules contain a segregation requirement;

“the segregation requirement” means the requirement on the trustees or managers under the scheme rules of a non-segregated multi-employer section to segregate such part of the assets of the section as is attributable to the section’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer, in relation to the section, where that employer ceases to participate in the scheme;

“segregated part” means a part of a non-segregated multi-employer section which is created when a segregation requirement in the scheme rules relating to that multi-employer section of the scheme has been triggered.

(5) The fraud compensation provisions shall be modified in their application to a non-segregated multi-employer section to which paragraphs (1) and (2) apply so that they shall be read as if—

(a) references to “an occupational pension scheme” were references to a segregated part of a non-segregated multi-employer section in circumstances where that part, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with Article 165(1);

(b) references to “an eligible scheme” were references to a segregated part of a non-segregated multi-employer section of a segregated scheme in circumstances where that part, if it were a scheme, would be an eligible scheme;

(c) except as otherwise provided in this regulation, references to—

(i) “the scheme” were to “the segregated part”;

(ii) “the employer” were to “the employer in relation to the segregated part”;

(iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the section”;

(d) in Article 165—

(i) in paragraph (2)—

(aa) for sub-paragraph (a) there were substituted the following sub-paragraph—

“(a) a qualifying insolvency event has occurred in relation to an employer in relation to a multi-employer section of the segregated scheme and a segregated part of the section is created,”;

(bb) in sub-paragraph (b) for “in relation to the scheme” there were substituted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”, and

(cc) in sub-paragraph (c)(ii) after “the scheme failure notice” there were inserted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”;

(ii) in paragraph (3)(b) after “scheme failure notice” there were inserted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”;

(iii) in paragraph (4)—

(aa) for sub-paragraph (b) there were substituted the following sub-paragraph—

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- “(b) an employer in relation to a multi-employer section of the segregated scheme is unlikely to continue as a going concern and a segregated part of the section is created,” and
- (bb) in sub-paragraph (c) for “the employer” there were substituted “that employer”;
- (iv) in paragraph (7) for “a scheme” there were substituted “a segregated part”, and
- (v) in paragraph (9)(a) and (c) for “a scheme” there were substituted “a segregated part”;
- (e) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to a relevant segregated part of a multi-employer section of the segregated scheme”;
 - (ii) in paragraph (2) after “scheme rescue”, in both places where it occurs, there were inserted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”;
 - (iii) after paragraph (3) there were inserted the following paragraph—
 - “(3A) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (3) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”, and
- (f) in Article 168 after paragraph (5) there were added the following paragraph—
 - “(6) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”.

Commencement Information

I16 Reg. 16 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Non-segregated schemes: schemes with requirement for partial wind up on withdrawal of participating employer

- 17.—**(1) This paragraph applies to a non-segregated scheme in circumstances where—
- (a) an insolvency event occurs in relation to an employer in relation to the scheme;
 - (b) the trustees or managers of the scheme become aware that an employer in relation to the scheme is unlikely to continue as a going concern, and meets the requirements prescribed in regulation 7 of the Entry Rules Regulations (applications and notifications to the Board), or
 - (c) an employer in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed in regulation 4 (employers who are unlikely to continue as a going concern).
- (2) Where paragraph (3) applies to the non-segregated scheme—
- (a) the segregation requirement shall be deemed to have been triggered in relation to an employer immediately after the occurrence of an event described in paragraph (1)(a), (b) or (c), and

- (b) a segregated part of the scheme shall be deemed to have been created for and in respect of any period after the occurrence of the event described in paragraph (1)(a), (b) or (c) where—
- (i) a withdrawal event within the meaning of Article 133(2), or
 - (ii) a cessation event in relation to a notice referred to in Article 165(9)(b)(iv),
- has not occurred in relation to the segregated part.
- (3) This paragraph applies where the segregation requirement in the scheme rules would be triggered when an employer in relation to the non-segregated scheme ceases to participate in the scheme.
- (4) In this regulation—
- “non-segregated scheme” means a multi-employer scheme which is not divided into two or more sections where the rules contain a segregation requirement;
- “the segregation requirement” means the requirement on the trustees or managers under the scheme rules of a non-segregated scheme to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer, in relation to the scheme, where that employer ceases to participate in the scheme;
- “segregated part” means a part of a non-segregated scheme which is created when a segregation requirement in the scheme rules has been triggered.
- (5) The fraud compensation provisions shall be modified in their application to a non-segregated scheme to which paragraphs (1) and (2) apply so that they shall be read as if—
- (a) references to “an occupational pension scheme” were to a segregated part of a non-segregated scheme where that part, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with Article 165(1);
 - (b) references to “an eligible scheme” were to a segregated part of a non-segregated scheme in circumstances where that part, if it were a scheme, would be an eligible scheme;
 - (c) except as otherwise provided in this regulation, references to—
 - (i) “the scheme” were to “the segregated part”;
 - (ii) “the employer” were to “the employer in relation to the segregated part”;
 - (iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the segregated part”;
 - (d) in Article 165—
 - (i) in paragraph (2) for sub-paragraph (a) there were substituted the following sub-paragraph—
 - “(a) a qualifying insolvency event has occurred in relation to an employer in relation to a non-segregated scheme and a segregated part of the scheme is created.”;
 - (ii) in paragraph (2)—
 - (aa) in sub-paragraph (b) for “in relation to the scheme” there were substituted “in relation to the segregated part of the non-segregated scheme”, and
 - (bb) in sub-paragraph (c)(ii) after “the scheme failure notice” there were inserted “in relation to the segregated part”;

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- (iii) in paragraph (3)(b) after “scheme failure notice” there were inserted “in relation to the segregated part of the non-segregated scheme”;
- (iv) in paragraph (4)—
 - (aa) for sub-paragraph (b) there were substituted the following sub-paragraph—
 - “(b) an employer in relation to a non-segregated scheme is unlikely to continue as a going concern and a segregated part of the scheme is created.”, and
 - (bb) in sub-paragraph (c) for “the employer” there were substituted “that employer”;
 - (v) in paragraph (7) for “a scheme” there were substituted “a segregated part”, and
 - (vi) in paragraph (9)(a) and (c) for “a scheme” there were substituted “a segregated part”;
- (e) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to a segregated part”;
 - (ii) in paragraph (2) after “scheme rescue”, in both places where it occurs, there were inserted “in relation to a segregated part”, and
 - (iii) after paragraph (3) there were inserted the following paragraph—
 - “(3A) Where the trustees or managers with ultimate responsibility for the administration of the segregated part receive a notice from the Board under paragraph (3) they must send a copy of the notice as soon as practicable to all other trustees or managers of the scheme (if different) and all of the employers in relation to the scheme.”, and
- (f) in Article 168 after paragraph (5) there were added the following paragraph—
 - “(6) Where the trustees or managers with ultimate responsibility for the administration of the segregated part receive a notice from the Board under paragraph (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the scheme (if different) and all of the employers in relation to the scheme.”.

Commencement Information

I17 Reg. 17 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Non-segregated schemes: schemes without provision for partial wind up on withdrawal of participating employer

18.—(1) This paragraph applies to a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”) the rules of which do not provide for the partial winding up of the scheme when an employer in relation to the scheme ceases to participate in the scheme.

(2) The fraud compensation provisions shall be modified in their application to a non-segregated scheme to which paragraph (1) applies so that they shall be read as if—

- (a) references to “an occupational pension scheme” were to “a non-segregated scheme”;
- (b) in Article 165—
 - (i) in paragraph (2)—
 - (aa) for sub-paragraph (a) there were substituted the following sub-paragraph—
 - “(a) a qualifying insolvency event has occurred in relation to an employer in relation to the non-segregated scheme.”;

- (bb) in sub-paragraph (b) for “in relation to the scheme” there were substituted “in relation to the non-segregated scheme”;
- (cc) in sub-paragraph (c)(i) for “the insolvency event” there were substituted “the first insolvency event in relation to the scheme”, and
- (dd) in sub-paragraph (c)(ii) after “under Article 106(2)(a)” there were inserted “and that notice has become binding”;
- (ii) in paragraph (3)(b) for “in relation to the scheme” there were substituted “in relation to the non-segregated scheme”;
- (iii) in paragraph (4) for sub-paragraph (b) there were substituted the following sub-paragraph—
 - “(b) in relation to the non-segregated scheme—
 - (i) an employer is unlikely to continue as a going concern at a time when all other employers in relation to the scheme—
 - (aa) have had an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) are unlikely to continue as a going concern, or
 - (ii) a person, or persons, are no longer an employer in relation to the scheme at a time when all other employers in relation to the scheme—
 - (aa) have had an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) are unlikely to continue as a going concern, and
- at least one insolvency event occurred on or after 6th April 2005 or at least one employer was unlikely to continue as a going concern, on or after that date,”;
- (iv) in paragraph (4)(c) for “the employer” there were substituted “those employers who are unlikely to continue as a going concern”;
- (v) in paragraph (8) after sub-paragraph (a) there were inserted the following sub-paragraph—
 - “(aa) it occurs—
 - (i) simultaneously in relation to more than one of the employers in relation to the scheme at a time when those employers are the only employers in relation to the scheme, or
 - (ii) in relation to an employer in relation to the scheme at a time when all other employers in relation to the scheme have either had—
 - (aa) an insolvency event occur in relation to them and an insolvency practitioner is still required by law to be appointed to act in relation to them, or
 - (bb) a notice given in respect of them by the trustees or managers of the scheme under Article 113(1A), as modified by Part VI of the Multi-employer Regulations(20), or a notice given by the Board in respect

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of them under Article 113(5) by virtue of a notice given by the Regulator under Article 113(4)(a), and”;

- (c) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to the non-segregated scheme”, and
 - (ii) in paragraph (3)(d) for “the employer”, in both places where it occurs, there were substituted “each employer”, and
- (d) in Article 168(5)(d) for “the employer”, in both places where it occurs, there were substituted “each employer”.

Commencement Information

118 Reg. 18 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Non-segregated schemes with an option to segregate on the withdrawal of participating employer

19.—(1) This paragraph applies to a non-segregated scheme in circumstances—

- (a) where—
 - (i) an insolvency event occurs in relation to an employer in relation to the scheme;
 - (ii) the trustees or managers of the scheme become aware that an employer in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed in regulation 7 of the Entry Rules Regulations (applications and notifications to the Board), or
 - (iii) an employer in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed in regulation 4 (employers who are unlikely to continue as a going concern), and
- (b) where, under the rules of the scheme, the trustees or managers have an option, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer (“segregated part”).

(2) Subject to paragraph (3), in the case of a scheme to which paragraph (1) applies, the trustees or managers of the scheme shall be deemed to have exercised the option to create a segregated part of the scheme immediately after the occurrence of an event described in paragraph (1)(a)(i), (ii) or (iii) where—

- (a) a withdrawal event within the meaning of Article 133(2), or
- (b) a cessation event in relation to a notice referred to in Article 165(9)(b)(iv),

has not occurred in relation to the segregated part.

(3) Paragraph (2) shall not apply where the trustees or managers of the scheme—

- (a) decide not to exercise the option to create a segregated part of the scheme, and
- (b) in such a case give the Board a notice to this effect as required by—
 - (i) Article 104(3A) or 113(1B) (non-segregation notice), as modified by Part VII of the Multi-employer Regulations, or
 - (ii) Article 166(1A) (non-segregation notice), as modified by paragraph (4).

(4) Article 166 shall be modified in its application to a non-segregated scheme to which paragraphs (1) and (3) apply as if after paragraph (1) there were inserted the following paragraph—

“(1A) If, where this Article applies to the non-segregated multi-employer scheme, the trustees or managers of the scheme decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of the scheme they must, as soon as practicable—

- (a) give a notice to the Board to that effect (a “non-segregation notice”), and
- (b) send a copy of that notice to—
 - (i) an insolvency practitioner acting in relation to the employer, and
 - (ii) the Regulator.”.

(5) Where paragraph (2) applies, the fraud compensation provisions shall be modified in their application to the non-segregated scheme so that they shall be read as if—

- (a) references to “an occupational pension scheme” were to a segregated part of a non-segregated scheme where that part, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with Article 165(1);
- (b) references to “an eligible scheme” were to a segregated part of a non-segregated scheme in circumstances where that part, if it were a scheme, would be an eligible scheme;
- (c) except as otherwise provided in this regulation, references to—
 - (i) “the scheme” were to “the segregated part”;
 - (ii) “the employer” were to “the employer in relation to the segregated part”;
 - (iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the segregated part”;
- (d) in Article 165—
 - (i) in paragraph (2)—
 - (aa) for sub-paragraph (a) there were substituted the following sub-paragraph—
 - “(a) in relation to a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”)—
 - (i) a qualifying insolvency event has occurred in relation to an employer,
 - (ii) the trustees or managers have an option under the rules of the scheme, where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to that employer (“the segregated part”), and
 - (iii) a segregated part in relation to the scheme is deemed to have been created.”;
 - (bb) in sub-paragraph (b) for “in relation to the scheme” there were substituted “in relation to the segregated part of the non-segregated scheme”, and
 - (cc) in sub-paragraph (c)(ii) after “the scheme failure notice” there were inserted “in relation to the segregated part”;

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- (ii) in paragraph (3)(b) after “scheme failure notice” there were inserted “in relation to the segregated part of the non-segregated scheme”;
- (iii) in paragraph (4)—
 - (aa) for sub-paragraph (b) there were substituted the following sub-paragraph—
 - “(b) an employer in relation to the multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”) is unlikely to continue as a going concern and—
 - (i) the trustees or managers of the scheme have an option under the rules of the scheme, where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to that employer (“the segregated part”), and
 - (ii) a segregated part in relation to the scheme is deemed to have been created,” and
 - (bb) in sub-paragraph (c) for “the employer” there were substituted “that employer”;
 - (iv) in paragraph (7) for “a scheme” there were substituted “a segregated part”, and
 - (v) in paragraph (9)(a) and (c) for “a scheme” there were substituted “a segregated part”;
- (e) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to a segregated part”;
 - (ii) in paragraph (2) after “scheme rescue”, in both places where it occurs, there were inserted “in relation to a segregated part”, and
 - (iii) after paragraph (3) there were inserted the following paragraph—

“(3A) Where the trustees or managers with ultimate responsibility for the administration of the segregated part receive a notice from the Board under paragraph (3) they must send a copy of the notice as soon as practicable to all other trustees or managers of the scheme (if different) and all of the employers in relation to the scheme.”, and
- (f) in Article 168 after paragraph (5) there were added the following paragraph—

“(6) Where the trustees or managers with ultimate responsibility for the administration of the segregated part receive a notice from the Board under paragraph (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the scheme (if different) and all of the employers in relation to the scheme.”.
- (6) In this regulation—

“non-segregated scheme” means a multi-employer scheme which is not divided into two or more sections where the rules contain a segregation requirement;

“the segregation requirement” means the requirement on the trustees or managers under the scheme rules of a non-segregated scheme to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer, in relation to the scheme, where that employer ceases to participate in the scheme.

Commencement Information

I19 Reg. 19 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Segregated schemes: multi-employer sections of segregated schemes with an option to segregate on withdrawal of participating employer

20.—(1) This paragraph applies to a non-segregated multi-employer section of a segregated scheme in circumstances—

(a) where—

- (i) an insolvency event occurs in relation to an employer in relation to that section;
- (ii) the trustees or managers of the scheme become aware that an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 7 of the Entry Rules Regulations (applications and notifications to the Board), or
- (iii) the employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed in regulation 4 (employers who are unlikely to continue as a going concern), and

(b) where, under the rules of the scheme, the trustees or managers have an option, in circumstances where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer (“segregated part”).

(2) Subject to paragraph (3), in the case of a non-segregated multi-employer section to which paragraph (1) applies, the trustees or managers of that section shall be deemed to have exercised the option to create a segregated part of that section immediately after the occurrence of an event described in paragraph (1)(a)(i), (ii) or (iii) where—

- (a) a withdrawal event within the meaning of Article 133(2), or
- (b) a cessation event in relation to a notice referred to in Article 165(9)(b)(iv),

has not occurred in relation to the segregated part.

(3) Paragraph (2) shall not apply where the trustees or managers of the scheme—

- (a) decide not to exercise the option to create a segregated part of the section, and
- (b) in such a case give the Board a notice to this effect as required by—
 - (i) Article 104(3A) or 113(1B) (non-segregation notice), as modified by Part VIII of the Multi-employer Regulations, or
 - (ii) Article 166(1A) (non-segregation notice), as modified by paragraph (4).

(4) Article 166 shall be modified in its application to a non-segregated multi-employer section to which paragraphs (1) and (3) apply as if after paragraph (1) there were inserted the following paragraph—

“(1A) If, where this Article applies to a non-segregated multi-employer section of the segregated scheme, the trustees or managers of the section decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of that section they must, as soon as practicable—

- (a) give a notice to the Board to that effect (a “non-segregation notice”), and
- (b) send a copy of that notice to—

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- (i) an insolvency practitioner acting in relation to the employer, and
- (ii) the Regulator.”.

(5) Where paragraph (2) applies, the fraud compensation provisions shall be modified in their application to the non-segregated multi-employer section so that they shall be read as if—

- (a) references to “an occupational pension scheme” were references to a segregated part of a non-segregated multi-employer section in circumstances where that part, if it were a scheme, would be a scheme in respect of which the Board shall make a fraud compensation payment in accordance with Article 165(1);
- (b) references to “an eligible scheme” were references to a segregated part of a non-segregated multi-employer section of a segregated scheme in circumstances where that part, if it were a scheme, would be an eligible scheme;
- (c) except as otherwise provided in this regulation, references to—
 - (i) “the scheme” were to “the segregated part”;
 - (ii) “the employer” were to “the employer in relation to the segregated part”;
 - (iii) “the trustees or managers of the scheme” or “the trustees or managers” were to “the trustees or managers with ultimate responsibility for the administration of the section”;
- (d) in Article 165—
 - (i) in paragraph (2)—
 - (aa) for sub-paragraph (a) there were substituted the following sub-paragraph—
 - “(a) in relation to a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”)—
 - (i) a qualifying insolvency event has occurred in relation to an employer,
 - (ii) the trustees or managers in relation to the multi-employer section have an option under the rules of the section, where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of that section by reference to that employer (“the segregated part”), and
 - (iii) a segregated part in relation to the multi-employer section is deemed to have been created,”;
 - (bb) in sub-paragraph (b) for “in relation to the scheme” there were substituted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”, and
 - (cc) in sub-paragraph (c)(ii) after “the scheme failure notice” there were inserted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”;
 - (ii) in paragraph (3)(b) after “scheme failure notice” there were inserted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”;
 - (iii) in paragraph (4)—
 - (aa) for sub-paragraph (b) there were substituted the following sub-paragraph—

- “(b) an employer in relation to a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”) is unlikely to continue as a going concern and—
 - (i) the trustees or managers of that section have an option under the rules of the multi-employer section, where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of that section by reference to that employer (“the segregated part”), and
 - (ii) a segregated part in relation to the multi-employer section is deemed to have been created,” and
- (bb) in sub-paragraph (c) for “the employer” there were substituted “that employer”;
- (iv) in paragraph (7) for “a scheme” there were substituted “a segregated part”, and
- (v) in paragraph (9)(a) and (c) for “a scheme” there were substituted “a segregated part”;
- (e) in Article 166—
 - (i) in paragraph (1) after “Article 165 apply” there were inserted “to a relevant segregated part of a multi-employer section of the segregated scheme”;
 - (ii) in paragraph (2) after “scheme rescue”, in both places where it occurs, there were inserted “in relation to the relevant segregated part of a multi-employer section of the segregated scheme”, and
 - (iii) after paragraph (3) there were inserted the following paragraph—

“(3A) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (3) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”;
- (f) in Article 168 after paragraph (5) there were added the following paragraph—

“(6) Where the trustees or managers with ultimate responsibility for the administration of the section receive a notice from the Board under paragraph (5) they must send a copy of the notice as soon as practicable to all other trustees or managers of the segregated scheme (if different) and all of the employers in relation to the scheme.”.
- (6) In this regulation—

“non-segregated multi-employer section” means a multi-employer section of a segregated scheme where the rules contain a segregation requirement;

“the segregation requirement” means the requirement on the trustees or managers under the scheme rules of a non-segregated multi-employer section to segregate such part of the assets of the section as is attributable to the section’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer, in relation to the section, where that employer ceases to participate in the scheme.

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Commencement Information

I20 Reg. 20 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Amendment of the Pension Protection Fund (Reviewable Matters) Regulations

21. In the Schedule to the Pension Protection Fund (Reviewable Matters) Regulations (Northern Ireland) 2005(21) after paragraph 16 there shall be added the following paragraphs—

“**17.** Paragraph 20

17. The period beginning with the 22nd day after the settlement date as determined by the Board under Article 167(2) until the Board makes fraud compensation payments under Article 165(1).

18. Paragraph 21

18. In respect of a notice under—

- (a) Article 166(2)(a) the period beginning with the 15th day after the Board is able to confirm, in accordance with Article 166(2)(a), that a scheme rescue is not possible until the Board issues a notice under Article 166(2);
- (b) Article 166(2)(b) the period beginning with the 15th day after the Board is able to confirm, in accordance with Article 166(2)(b), that a scheme rescue has occurred until the Board issues a notice under Article 166(2).

19. Paragraph 22

19. The period beginning with the 15th day after the date when the conditions set out in Article 165(1) have been satisfied and further recoveries of value, within the meaning of Article 167(3), are unlikely, until the Board determines the settlement date under Article 167(2).

20. Paragraph 23

20. The period beginning with the 22nd day after the trustees or managers of the scheme have notified the Board that a payment has been received until the Board reaches a determination under Article 167(4) that the payment may be treated as a recovery of value.

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21. Paragraph 24

21. The period beginning with the 15th day after the Board has sufficient information for it to be satisfied that the case is one to which Article 169(1) applies, or may apply, and the trustees or managers of the scheme are not able to pay prescribed benefits under the scheme rules until the Board makes an interim payment under Article 169(1) in respect of the application under Article 165(1).

22. Paragraph 31(22)

22. The period beginning with the 22nd day after the Board has sufficient information to make a determination of any question which was within the functions of the Pensions Compensation Board under Articles 79 to 82 of the 1995 Order until the Board makes the determination.”.

Commencement Information

I21 Reg. 21 in operation at 1.9.2005, see [reg. 1\(1\)](#)

Amendment of the Pension Protection Fund (Provision of Information) Regulations

22.—(1) The Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005(23) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “beneficiary” there shall be inserted the following definitions—

““compensation payments” means one or more payments under Article 81 of the 1995 Order(24);

“the Compensation Regulations” means the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations (Northern Ireland) 1997(25);”;

(b) after the definition of “eligible scheme” there shall be inserted the following definitions—

““fraud compensation payments” means one or more payments under Article 165(1) of the Order;

“the Fraud Compensation Regulations” means the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005;”;

(c) after the definition of “normal pension age” there shall be inserted the following definition—

(22) Paragraph 31 was added, for the purpose of transitional arrangements, by Article 2(2) of [S.R. 2005 No. 375](#)

(23) [S.R. 2005 No. 129](#)

(24) Articles 78 to 82 were repealed by Schedule 11 to the Pensions (Northern Ireland) Order 2005 and are saved for transitional purposes by Article 3 of [S.R. 2005 No. 375](#)

(25) [S.R. 1997 No. 141](#)

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““the Pensions Compensation Board” means the Board established under section 78 of the Pensions Act 1995(26);”, and

- (d) after the definition of “personal representative” there shall be inserted the following definition—

““recovery of value” shall be construed in accordance with Article 167(3) of the Order or, as the case may be, in accordance with Article 79(3)(f) of the 1995 Order;”.

- (3) In regulation 3 (information to be provided by the Board) after paragraph (6) there shall be added the following paragraphs—

“(7) Where an application for fraud compensation payments has been made by a person prescribed by regulation 5 of the Fraud Compensation Regulations (“the applicant”) the information to be provided by the Board to the applicant and the trustees or managers of the scheme shall be determined in accordance with the provisions of Schedule 1A.

(8) Where the Board is exercising the functions of the Pensions Compensation Board(27) and an application for compensation payments has been made by a person prescribed by regulation 4 of the Compensation Regulations (“the applicant”) the information to be provided by the Board to the applicant and the trustees or managers of the scheme, shall be determined in accordance with the provisions of Schedule 1A.”.

- (4) After regulation 4 (information to be provided by trustees or managers) there shall be inserted the following regulation—

“Information to be provided to the Board

4A.—(1) This paragraph applies where an application for a fraud compensation payment has been made by a person prescribed by regulation 5 of the Fraud Compensation Regulations in respect of an occupational pension scheme and the trustees or managers of that scheme have reasonable grounds for believing they have obtained a recovery of value.

(2) This paragraph applies where an application for a compensation payment has been made by a person prescribed by regulation 4 of the Compensation Regulations in respect of an occupational pension scheme and the trustees of that scheme have reasonable grounds for believing that they have obtained a recovery of value.

(3) Where paragraph (1) or (2) applies the trustees or managers shall within the period of 14 days beginning with the day on which they have reasonable grounds for believing that they have obtained a recovery of value notify the Board of—

- (a) the amount of the recovery of value, and
- (b) the grounds on which they have considered it reasonable to believe that they have obtained a recovery of value.”.

- (5) After Schedule 1 (information to be provided by the Board) there shall be inserted as Schedule 1A the Schedule set out in the Schedule to these Regulations.

Commencement Information

I22 Reg. 22 in operation at 1.9.2005, see [reg. 1\(1\)](#)

(26) [1995 c. 26](#)

(27) The Board of the Pension Protection Fund shall, by virtue of Article 4 of [S.I. 2005/1720 \(C. 73\)](#), exercise certain functions of the Pensions Compensation Board which fall to be exercised on or after 1st September 2005 and Articles 78 to 82 of the Pensions (Northern Ireland) Order 1995 are saved for that purpose by Article 3 of [S.R. 2005 No. 375](#)

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

23. In the Schedule to the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005(28) after paragraph 19 there shall be added the following paragraphs—

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- | | |
|-------------------|--|
| “20. Paragraph 20 | (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or |
| | (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person. |
| 21. Paragraph 21 | (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or |
| | (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person. |
| 22. Paragraph 22 | (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or |
| | (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person. |
| 23. Paragraph 23 | (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or |
| | (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person. |

(28) S.R. 2005 No. 138, to which there are amendments not relevant to these regulations

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- 24.** Paragraph 24
- (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or
 - (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person.
- 25.** Paragraph 25
- (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or
 - (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person.
- 26.** Paragraph 26
- (a) The trustees or managers of the scheme in respect of which an application has been made under Article 165(1)(d); or
 - (b) any other person prescribed in regulations made under Article 165(5)(a), if the application under Article 165(1)(d) was made by that person.
- 27.** Paragraph 29
- 27.** Any of the persons specified in Article 171(3) or by regulations made under that Article.
- 28.** Paragraph 30
- 28.** Any of the persons specified in Article 171(3) or by regulations made under that Article.
- 29.** Paragraph 31
- 31.** Any of the persons specified in Article 80(1) of the 1995 Order.”

Commencement Information

I23 Reg. 23 in operation at 1.9.2005, see [reg. 1\(1\)](#)

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Sealed with the Official Seal of the Department for Social Development on 10th August 2005.

L.S.

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

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Changes and effects yet to be applied to :

- reg. 1(2) text amended by S.R. 2010/32 reg. 6(2)
- reg. 1(3) text amended by S.R. 2010/106 reg. 2(2)
- reg. 1(3) words substituted by S.R. 2012/270 reg. 8
- reg. 2(1)(f)(i) words substituted by S.R. 2007/185 reg. 11(a)(i)
- reg. 2(1)(g) words substituted by S.R. 2007/185 reg. 11(a)(ii)
- reg. 2(1)(g)(i) words substituted by S.R. 2007/185 reg. 11(a)(ii)
- reg. 2(1)(g)(ii) words substituted by S.R. 2007/185 reg. 11(a)(ii)
- reg. 2(1)(k) omitted by S.R. 2007/185 reg. 11(a)(iii)
- reg. 2(2) words substituted by S.R. 2007/185 reg. 11(b)
- reg. 5 modified by S.R. 2022/121 reg. 23(2)(b)
- reg. 5(3) modified by S.R. 2022/234 reg. 23(2)(b)
- reg. 5(3)(c) modified by S.R. 2023/59 reg. 23(2)(b)(i)
- reg. 5(3)(c) words substituted by S.R. 2023/148 reg. 23(2)(b)(i)
- reg. 5(3)(c) words substituted by S.R. 2024/78 reg. 23(2)(b)(i)
- reg. 5(3)(e) modified by S.R. 2023/59 reg. 23(2)(b)(ii)
- reg. 5(3)(e) substituted by S.R. 2023/148 reg. 23(2)(b)(ii)
- reg. 5(3)(e) substituted by S.R. 2024/78 reg. 23(2)(b)(ii)
- reg. 5(5)(b) text amended by S.R. 2010/32 reg. 6(3)(a)
- reg. 7(5)(b) text amended by S.R. 2010/32 reg. 6(4)(a)
- reg. 11 text amended by S.R. 2010/32 reg. 6(5)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- reg. 5(6) added by S.R. 2010/32 reg. 6(3)(b)
- reg. 7(6) added by S.R. 2010/32 reg. 6(4)(b)
- reg. 8(1)(b)(v) added by S.R. 2023/41 reg. 3
- reg. 8A inserted by S.R. 2010/106 reg. 2(3)