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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 91**

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

**PART II**

**SEGREGATED SCHEMES: SINGLE EMPLOYER SECTIONS**

**Application and effect**

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

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

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

- (a) Part III of the Order, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and
- (b) references in Part III of the Order, except in Chapter 4, to –
  - (i) “scheme rules” shall be read as if they were references to “scheme rules relating to the section”;
  - (ii) “the scheme” shall be read as if they were references to “the section”;
  - (iii) “the employer” shall be read as if they were references to “the employer in relation to the section”, and
  - (iv) “trustees or managers of the scheme” shall, in relation to a section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.

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

**Notification of insolvency events, confirmation of scheme status etc.**

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

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

- (b) after paragraph (2) there were inserted the following paragraph –
- “(2A) Where the trustees or managers of a section of a segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of the scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –
- (a) in paragraph (1) for “employer in relation to an occupational pension scheme” there were substituted “employer in relation to a section of a segregated scheme in circumstances where that employer is the only employer in relation to that section”;
- (b) in paragraph (2) –
- (i) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant section of the scheme”, and
- (ii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant section of the scheme”;
- (c) in paragraph (4) for “in relation to the scheme” there were substituted “in relation to the relevant section of the scheme”;
- (d) in paragraph (5) –
- (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a section of a segregated scheme”, and
- (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”; and
- (e) after paragraph (6) there were inserted the following paragraph –
- “(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –
- “(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –
- (a) in paragraph (1) for “in relation to an occupational pension scheme” there were substituted “in relation to a section of a segregated scheme in circumstances where the employer is the only employer in relation to that section”; and
- (b) after paragraph (4) there were inserted the following paragraph –
- “(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

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

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

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

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

### **Eligible schemes**

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

(a) a money purchase scheme; or

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

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

### **Board’s duty where application or notification received under Article 113**

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

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

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

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

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

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

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

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

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

“(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that

notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;

- (d) in paragraph (5) –
  - (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a section of a segregated scheme”, and
  - (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”; and
- (e) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Protected liabilities and assessment periods**

6.—(1) Article 115 (protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

“(1) For the purposes of this Chapter the protected liabilities, in relation to a section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”), are –

- (a) the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the section in accordance with this Chapter,
- (b) a proportion of the liabilities of the scheme as a whole as calculated in the Board’s valuation of the relevant section of the scheme under Article 127 which are not liabilities to, or in respect of, members,
- (c) the estimated cost of winding up the section.”.

(2) Article 116 (assessment periods) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraphs (2) and (4) after “an assessment period” there were inserted “in relation to a section of a segregated scheme”.

### **Directions and power to validate contraventions of Article 119**

7.—(1) Article 118 (directions) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) –
  - (i) for “the scheme’s protected liabilities do not exceed its assets” there were substituted “the protected liabilities of the section do not exceed its assets”, and
  - (ii) for “in relation to the scheme” there were substituted “in relation to the segregated scheme in question”; and
- (b) in paragraph (3)(a)(i) for “the trustees or managers” there were substituted “any trustees or managers”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

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

### **Valuation of assets**

**8.**—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (2) for “the scheme” there were substituted “the relevant section of the scheme”.

(2) Article 128 (approval of valuation) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (1) for “obtains a valuation in respect of a scheme” there were substituted “obtains a valuation in respect of the relevant section of the scheme”; and
- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a segregated scheme receive a copy of a valuation of the relevant section of the scheme under paragraph (2), they must send a copy of that valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 129 (binding valuations) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) for “in relation to a scheme” there were substituted “in relation to the relevant section of the scheme”; and
- (b) after paragraph (3) there were inserted the following paragraph –

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

### **Refusal to assume responsibility for a scheme**

**9.**—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) Regulations may provide that where the Board is satisfied that any section of a segregated scheme is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;

- (b) in paragraph (2) for “a scheme” there were substituted “a section of the scheme”;
- (c) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of

that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

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

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

(2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a new section of a segregated scheme or a section of a new segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) for paragraph (1) there were substituted the following paragraph –

“(1) The Board must refuse to assume responsibility for a new section of a segregated scheme or a section of a new segregated scheme (“the new section”) under this Chapter where it is satisfied that –

- (a) the new section was established during such period as may be prescribed,
- (b) the employer in relation to the new section was, at the date of establishment of that section, also an employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new section,
- (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme or the old section has or have been made to the new section, and
- (d) the main purpose or one of the main purposes of establishing the new section and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the transfer or transfers, regulations under Article 130 would have operated to prevent such payments in respect of their rights under the old scheme or the old section.”;

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

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

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

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

(3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

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

“(5A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice issued by the Board under this Article, they must send a copy

of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

- (b) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Reconsideration and duty to assume responsibility for a scheme following reconsideration**

**10.**—(1) Article 135 (application for reconsideration) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (8) in the definition of “protected benefits quotation” for the words from ““protected benefits quotation”, in relation to a scheme, means” to “from the reconsideration time” there were substituted –

““protected benefits quotation”, in relation to a section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the section from the trustees or managers of the scheme, which would provide in respect of each member of the section from the reconsideration time”.

(2) Article 136 (duty to assume responsibility following reconsideration) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) for paragraph (2) there were substituted the following paragraph –

“(2) The Board must assume responsibility in accordance with this Chapter for a section of a segregated scheme if it is satisfied that the value of the assets of the section at the reconsideration time is less than the aggregate of –

- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) a proportion of the amount of liabilities of the scheme as a whole at that time, as calculated in the valuation of the relevant section of the scheme referred to in paragraph (2) of Article 135, which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated cost of winding up the section at that time.”;

- (b) after paragraph (3) there were inserted the following paragraph –

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

- (c) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities**

**11.**—(1) Article 137 (closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) for “a closed scheme” there were substituted “a closed section of a scheme”;
- (b) in paragraph (5) for “a closed scheme” there were substituted “a closed section of a scheme”; and
- (c) after paragraph (6) there were inserted the following paragraph –

“(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 138 (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2)(a) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible in relation to a section of a segregated scheme but section has sufficient assets to meet the protected liabilities)”;
- (b) in paragraph (6) for “a scheme is wound up” there were substituted “a section of a segregated scheme is wound up”;
- (c) in paragraph (11) for “winding up of a scheme” there were substituted “winding up of a section of a segregated scheme”; and
- (d) in paragraph (12) for “in relation to a scheme” there were substituted “in relation to a section of a segregated scheme”.

(3) Article 139 (treatment of closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

“(1) In this Article “closed scheme” means a section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under Article 137 to continue as a closed section of the scheme.”.

(4) Article 141 (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –

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

### **Transfer notices and assumption of responsibility**

**12.**—(1) Article 144 (transfer notice) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (1) for “required to assume responsibility for a scheme” there were substituted “required to assume responsibility for a section of a segregated scheme”;
- (b) after paragraph (2) there were inserted the following paragraph –



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

(c) for paragraph (6) there were substituted the following paragraph –

“(6) The Board must give a copy of the transfer notice under paragraph (2) to –

(a) the Regulator, and

(b) an insolvency practitioner acting in relation to the employer in relation to the section of the scheme in respect of which the transfer notice is issued.”.

(2) Article 145 (effect of Board assuming responsibility for a scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) in paragraph (2)(b) after “obligations” there were inserted “to or in respect of members of that section”; and

(b) in paragraph (4)(a) after “to or in respect of persons” there were inserted “who are or were members of that section”.

(3) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a section of a segregated multi-employer scheme”.

### **The pension compensation provisions**

**13.**—(1) Article 146 (the pension compensation provisions) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (1) –

(a) for “in relation to a scheme” there were substituted “in relation to a section of a segregated scheme”;

(b) in sub-paragraphs (a) and (b) after “members” there were inserted “of that section”;

(c) in sub-paragraph (c) after “payable” there were inserted “to or in respect of members of that section”; and

(d) in sub-paragraph (d) at the end there were added “payable to or in respect of members of that section”.

(2) Article 147 (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (2)(a) after “to any member” there were inserted “of that section”.

(3) Article 150 (duty to pay scheme benefits unpaid at assessment date etc.) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (1) for “assumes responsibility for a scheme” there were substituted “assumes responsibility for a section of a segregated scheme with only one employer in relation to that section of the scheme”.