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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

**The Pensions (Northern Ireland) Order 2005**

**PART III**

**THE BOARD OF THE PENSION PROTECTION FUND**

**CHAPTER 2**

**INFORMATION RELATING TO EMPLOYER'S INSOLVENCY ETC.**

*Board's duties*

**Board's duty where there is a failure to comply with Article 106**

**108.**—(1) This Article applies where, in relation to an occupational pension scheme—

- (a) the Board determines under Article 107 not to approve a notice issued under Article 106 by an insolvency practitioner or former insolvency practitioner in relation to the employer, or
- (b) an insolvency practitioner or former insolvency practitioner in relation to the employer fails to issue a notice under Article 106 and the Board is satisfied that such a notice ought to have been issued under that Article.

(2) The obligations on the insolvency practitioner or former insolvency practitioner imposed by paragraphs (2) and (4) of Article 106 are to be treated as obligations imposed on the Board and the Board must accordingly issue a notice as required under that Article.

(3) Subject to paragraphs (4) and (5), where a notice is issued under Article 106 by the Board by virtue of this Article, it has effect as if it were a notice issued under Article 106 by an insolvency practitioner or, as the case may be, former insolvency practitioner in relation to the employer.

(4) Where a notice is issued under Article 106 by virtue of this Article, Article 106(6) does not apply and the Board must, as soon as reasonably practicable, give a copy of the notice to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme,
- (c) the insolvency practitioner or former insolvency practitioner mentioned in paragraph (1),
- (d) any insolvency practitioner in relation to the employer (who does not fall within subparagraph (c)), and
- (e) if there is no insolvency practitioner in relation to the employer, the employer.

(5) Where the Board—

- (a) is required to issue a notice under Article 106 by virtue of this Article, and
- (b) is satisfied that the notice ought to have been issued at an earlier time,

it must specify that time in the notice and the notice is to have effect as if it had been issued at that time.

### **Binding notices confirming status of scheme**

**109.**—(1) Subject to paragraph (2), for the purposes of this Part, a notice issued under Article 106 is not binding until—

- (a) the Board issues a determination notice under Article 107 approving the notice,
- (b) the period within which the issue of the determination notice under that Article may be reviewed by virtue of Chapter 6 has expired, and
- (c) if the issue of the determination notice is so reviewed—
  - (i) the review and any reconsideration,
  - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
  - (iii) any appeal against his determination or directions,has been finally disposed of and the determination notice has not been revoked, varied or substituted.

(2) Where a notice is issued under Article 106 by the Board by virtue of Article 108, the notice is not binding until—

- (a) the period within which the issue of the notice may be reviewed by virtue of Chapter 6 has expired, and
- (b) if the issue of the notice is so reviewed—
  - (i) the review and any reconsideration,
  - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
  - (iii) any appeal against his determination or directions,has been finally disposed of and the notice has not been revoked, varied or substituted.

(3) Where a notice issued under Article 106 becomes binding, the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding notice to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme,
- (c) the insolvency practitioner or former insolvency practitioner who issued the notice under Article 106 or, where that notice was issued by the Board by virtue of Article 108, the insolvency practitioner or former insolvency practitioner mentioned in paragraph (1) of that Article,
- (d) any insolvency practitioner in relation to the employer (who does not fall within subparagraph (c)), and
- (e) if there is no insolvency practitioner in relation to the employer, the employer.

(4) A notice under paragraph (3)—

- (a) must be in the prescribed form and contain such information as may be prescribed, and
- (b) where it is given in relation to a withdrawal notice issued under Article 106(2)(b) which has become binding, must state the time from which the Board ceases to be involved with the scheme (see Article 133).