
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 7

MISCELLANEOUS

Backdating the winding up of eligible schemes

Backdating the winding up of eligible schemes

198.—(1) Paragraph (3) applies where—

- (a) a qualifying insolvency event occurs in relation to the employer in relation to an eligible scheme, and
- (b) the winding up of the scheme begins at or after the time of that event but not later than the first of the following events in relation to the scheme—
 - (i) a scheme failure notice or a withdrawal notice issued under Article 106(2) in relation to the scheme becoming binding,
 - (ii) a withdrawal notice issued under Article 132 in relation to the scheme becoming binding, or
 - (iii) a notice issued under Article 106(4) becoming binding in a case where Article 132 does not apply.

(2) Paragraph (3) also applies where—

- (a) the trustees or managers of an eligible scheme—
 - (i) make an application to the Board under paragraph (1) of Article 113, or
 - (ii) receive a notice from the Board under paragraph (5)(a) of that Article, and
- (b) the winding up of the scheme begins—
 - (i) at or after the time the application is made or notice is received, but
 - (ii) not later than a scheme failure notice or a withdrawal notice issued under Article 114(2) or (3) in relation to the scheme becoming binding.

(3) The winding up of the scheme is to be taken as beginning immediately before the event within paragraph (1)(a) or, as the case may be, (2)(a) if—

- (a) the winding up is in pursuance of an order of the Regulator under Article 11 of the 1995 Order directing the winding up of the scheme, or
- (b) in any other case, the trustees or managers of the scheme so determine.

(4) In a case where paragraph (3) applies, the Regulator may by order direct any person specified in the order—

- (a) to take such steps as are so specified as it considers are necessary as a result of the winding up of the scheme beginning in accordance with that paragraph, and
- (b) to take those steps within a period specified in the order.

(5) If the trustees or managers of a scheme fail to comply with a direction to them contained in an order under paragraph (4), Article 10 of the 1995 Order (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

(6) That Article also applies to any other person who, without reasonable excuse, fails to comply with a direction to him contained in an order under paragraph (4).

(7) For the purposes of this Article “qualifying insolvency event” has the same meaning as in Article 111.

(8) Paragraph (4) of Article 112 applies for the purposes of paragraph (2) of this Article as it applies for the purposes of paragraph (1) of that Article.

(9) This Article is to be read subject to Article 119 (which restricts the winding up of an eligible scheme during an assessment period).

Pension sharing

Pension sharing

199.—(1) Regulations may modify any of the provisions of this Part as it applies in relation to—

- (a) cases where a person’s shareable rights under an eligible scheme have (at any time) become subject to a pension debit;
- (b) cases where—
 - (i) a pension sharing order or provision in respect of such rights is made before the time a transfer notice under Article 144 is received by the trustees or managers of the eligible scheme, and
 - (ii) that order or provision takes effect on or after the receipt by them of the notice.

(2) Regulations may also modify any of the provisions of Chapter 1 of Part V of the 1999 Order (pension sharing) as it applies in relation to—

- (a) cases within paragraph (1)(a) where any liability of the trustees or managers of the eligible scheme in respect of a pension credit was not discharged before the time a transfer notice under Article 144 was received by the trustees or managers of the eligible scheme;
- (b) cases within paragraph (1)(b).

(3) In this Article—

- (a) “pension debit” and “shareable rights” have the same meaning as in Chapter 1 of Part V of the 1999 Order (pension sharing), and
- (b) “pension sharing order or provision” means an order or provision falling within Article 25(1) of the 1999 Order (activation of pension sharing).