

## SCHEDULE

### PART 12

#### Amendments to the Employment Rights (Northern Ireland) Order 1996 and the Pension Schemes (Northern Ireland) Act 1993

##### **Amendments to the Pension Schemes (Northern Ireland) Act 1993**

- 256.**—(1) The Pension Schemes (Northern Ireland) Act 1993<sup>(1)</sup> is amended as follows.
- (2) In section 119<sup>(2)</sup>—
- (a) in subsection (1)—
- (i) in paragraph (b) after “Insolvency (Northern Ireland) Order 1989,” omit “or”; and
- (ii) at the end of paragraph (c) insert—
- “; or
- (d) subsection (1A) is satisfied.”;
- (b) after subsection (1) insert—
- “(1A) This subsection is satisfied if—
- (a) a request has been made for the first opening of collective proceedings—
- (i) based on the insolvency of the employer, as provided for under the laws, regulations and administrative provisions of a member State; and
- (ii) involving the partial or total divestment of the employer’s assets and the appointment of a liquidator or a person performing a similar task; and
- (b) the competent authority has—
- (i) decided to open the proceedings; or
- (ii) established that the employer’s undertaking or business has been definitively closed down and the available assets of the employer are insufficient to warrant the opening of the proceedings.
- (1B) For the purposes of subsection (1A)—
- (a) “liquidator or person performing a similar task” includes the official receiver or an administrator, trustee in bankruptcy, judicial factor, supervisor of a voluntary arrangement, or person performing a similar task;
- (b) “competent authority” includes—
- (i) a court,
- (ii) a meeting of creditors,
- (iii) a creditors’ committee,
- (iv) the creditors by a decision procedure, and
- (v) an authority of a member State empowered to open insolvency proceedings, to confirm the opening of such proceedings or to take decisions in the course of such proceedings.

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(1) 1993 c. 49.

(2) Section 119 was amended by paragraph 15 of Schedule 10 and Schedule 11 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), paragraph 53 of Schedule 2 and Schedule 9 to the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)) and section 41(2) of the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)).

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Insolvency (Amendment) (EU Exit) Regulations 2019 No. 146*

(1C) An application under section 120 may only be made in respect of a worker who worked or habitually worked in Northern Ireland in that employment to which the application relates.”.