

Schedules

SCHEDULE 4

Pension Protection Fund

Requirements to obtain actuarial valuations

1. The Pensions (Northern Ireland) Order 2005 is amended as follows.
2. In Article 54(3) (right to apply under Article 367 of the Insolvency (Northern Ireland) Order 1989)—
 - (a) for the words from “an actuarial” to the first “scheme” substitute “a determination made, or actuarial valuation obtained, in respect of the scheme by the Board under Article 127(2)”, and
 - (b) for “that Article” substitute “Article 127”.
- 3.—(1) Article 125 (effect of review of ill health pension) is amended as follows.
 - (2) In paragraph (4) after “which” insert “a determination under Article 127(2)(a) or”.
 - (3) In paragraph (5)(a) after “first” insert “makes a determination under Article 127(2)(a) or”.
4. In Article 126 (interpretation) in the definition of “scheme valuation” for “127” substitute “127(2)(b)”.
- 5.—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) is amended as follows.
 - (2) For paragraph (2) substitute—
 - “(2) The Board must, as soon as reasonably practicable—
 - (a) determine whether the condition in paragraph (2)(a) of the Article in question is satisfied, or
 - (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation of the scheme as at the relevant time.
 - (2A) Before doing so, it must give a notice stating whether it will make a determination under paragraph (2)(a) or obtain an actuarial valuation under paragraph (2)(b) to—
 - (a) the trustees or managers of the scheme, and

- (b) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.”.
 - (3) In paragraph (3) for “those purposes” substitute “the purposes of this Article”.
 - (4) In paragraph (4) for “this Article” substitute “a determination made under paragraph (2)(a) or an actuarial valuation obtained under paragraph (2)(b)”.
 - (5) In paragraph (5B) for “mentioned in paragraph (2)” substitute “of this Article”.
 - (6) After paragraph (5B) insert—
 - “(5C) The Board must issue a statement setting out how (subject to any provision made under paragraph (4)) it will make determinations under paragraph (2)(a).”.
 - (7) In paragraph (6)—
 - (a) after “paragraph (4),” insert “for the purposes of an actuarial valuation obtained under paragraph (2)(b)”, and
 - (b) for “sub-paragraphs (a) and (b) of that paragraph” substitute “paragraph (4) (a) and (b)”.
 - (8) In paragraph (9)—
 - (a) for “requires the” substitute “requires a determination to be made, or an”, and
 - (b) after “purposes of” insert “the determination or”.
 - (9) In paragraph (10) for “requires the” substitute “requires a determination to be made, or an”.
 - (10) In paragraph (11)(b)(ii) after “first” insert “makes a determination under paragraph (2)(a) or”.
6. After Article 127 insert—

“Determinations under Article 127

- 127A.—**(1) Where the Board makes a determination under Article 127(2)(a) it must give a copy of the determination to—
- (a) the Regulator,
 - (b) the trustees or managers of the scheme, and
 - (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (2) For the purposes of this Chapter a determination under Article 127(2) (a) is not binding until—
- (a) the period within which the determination may be reviewed by virtue of Chapter 6 has expired, and

Status: This is the original version (as it was originally enacted).

- (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 the PPF Ombudsman’s determination or directions,
- has been finally disposed of.

(3) For the purposes of determining whether or not the condition in Article 111(2)(a) or, as the case may be, Article 112(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under Article 127(2)(a) is conclusive.

This paragraph is subject to Article 156(3) and (4) (treatment of fraud compensation payments).

(4) Where a determination under Article 127(2)(a) becomes binding under this Article the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding determination to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and
- (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(5) A notice under paragraph (4) must be in the prescribed form and contain the prescribed information.”.

7.—(1) Article 128 (approval of valuation) is amended as follows.

(2) In paragraph (1) for “127” substitute “127(2)(b)”.

(3) In paragraph (2) for “that Article” substitute “Article 127”.

8. In Article 129(1) (binding valuations) for “127” substitute “127(2)(b)”.

9.—(1) Article 135 (application for Board to assume responsibility for schemes) is amended as follows.

(2) In paragraphs (2)(b) and (3)(b) for the words from “the valuation” to “scheme” substitute “the determination made by the Board or valuation obtained by the Board in respect of the scheme under Article 127(2)”.

(3) In paragraph (6) in sub-paragraphs (a)(ii) and (b)(ii) after “binding” insert “determination or”.

(4) In paragraph (10) for “under that Article” substitute “under Article 127(2)(b)”.

10. In Article 138(5)(b) (requirement to wind up scheme) after “that the” insert “determination made by the Board or”.

11.—(1) Article 142 (Board’s duty to assume responsibility for closed schemes) is amended as follows.

(2) For paragraph (3) substitute—

“(3) The Board must, as soon as reasonably practicable—

- (a) determine whether the condition in paragraph (1) is satisfied, or
- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of Article 127) of the scheme as at the relevant time.

(3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under paragraph (3) (a) or obtain an actuarial valuation under paragraph (3)(b).”.

(3) In paragraph (4) for “those purposes as it applies for the purposes mentioned in paragraph (2)” substitute “the purposes of this Article as it applies for the purposes”.

(4) In paragraph (5)—

- (a) for “a valuation obtained under paragraph (3)” substitute “a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3) (b)”,
- (b) for “a valuation obtained under Article 127” substitute “a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b)”, and
- (c) after sub-paragraph (a) insert—
 - “(aa) Article 127A (determinations under Article 127), other than paragraphs (1)(c) and (4)(c) (duty to give copy of determinations to employer’s insolvency practitioner);”.

(5) In paragraph (6)—

- (a) after “Articles 127” insert “, 127A”,
- (b) omit “and” at the end of sub-paragraph (a), and
- (c) after that sub-paragraph insert—
 - “(aa) paragraph (3) of Article 127A applies as if the reference to Article 112(2)(a) included a reference to paragraph (1) of this Article, and”.

12.—(1) Article 144 (transfer notice) is amended as follows.

(2) In paragraph (3) for “valuation obtained under Article 127” substitute “determination made or valuation obtained under Article 127(2)”.

(3) In paragraph (4) after “until the” insert “determination made or”.

13.—(1) Schedule 8 (reviewable matters) is amended as follows.

(2) For paragraph 8 substitute—

“**7B.** A notice under Article 127(2A) (whether Board will make a determination or obtain an actuarial valuation).

7C. The failure by the Board either to—

- (a) make a determination under Article 127(2)(a), or
- (b) obtain an actuarial valuation under Article 127(2)(b).

7D. A determination by the Board under Article 127(2)(a) (whether condition in Article 111(2)(a) or Article 112(2)(a) satisfied).””.

(3) After paragraph 14 insert—

“**14A.** A notice under Article 142(3A) (whether Board will make a determination or obtain an actuarial valuation).

14B. The failure by the Board either to—

- (a) make a determination under Article 142(3)(a), or
- (b) obtain an actuarial valuation under Article 142(3)(b).

14C. A determination by the Board under Article 142(3)(a) (whether condition in Article 142(1) satisfied).””.