

---

STATUTORY INSTRUMENTS

---

**2005 No. 255**

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

**PART III**

**THE BOARD OF THE PENSION PROTECTION FUND**

**CHAPTER 3**

**PENSION PROTECTION**

*Reconsideration*

**Duty to assume responsibility following reconsideration**

**136.**—(1 <sup>F1</sup> This Article applies where an application is made in respect of a scheme in accordance with Article 135.

[<sup>F2</sup>(1A) Paragraph (2) applies where the application is accompanied by a protected benefits quotation.]

(2 <sup>F3</sup> <sup>F1</sup>The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the aggregate of—

- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) the amount at that time of the liabilities of the scheme which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated costs of winding up the scheme at that time.

[<sup>F4</sup>(2A) Paragraph (2B) applies where—

- (a) the application is accompanied by evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and
- (b) the Board is satisfied that that is the case.

(2B) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the amount of the protected liabilities at that time.]

(3) Where the Board makes a determination for the purposes of paragraph (2) [<sup>F5</sup>or (2B)], it must issue [<sup>F6</sup>a notice to that effect (a “determination notice”)] and give a copy of that notice to—

- (a) the trustees or managers of the scheme, and
- (b) the Regulator.

<sup>F7</sup>(4) .....

**Changes to legislation:** *The Pensions (Northern Ireland) Order 2005, Section 136 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) <sup>F3</sup> But where the Board is satisfied of the matters mentioned in paragraph (2) [<sup>F8</sup>or (2B)], it is not required to assume responsibility for the scheme [<sup>F9</sup>under that paragraph] until the determination notice issued under paragraph (3) becomes binding.

(6) For the purposes of paragraph (5) a determination 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.

(7) Where a determination notice issued under paragraph (3) 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 trustees or managers of the scheme, and
- (b) the Regulator.

<sup>F10</sup>(8) .....

(9) The Board may—

- (a) <sup>F3</sup> for the purposes of paragraph (2), obtain its own valuation of the assets of the scheme as at the reconsideration time (within the meaning of Article 135), and
- (b) <sup>F3</sup> for the purposes of paragraph (2)(b), obtain its own valuation of the liabilities of the scheme as at that time;

and where it does so, paragraphs (9)(b), (10) and (11) of Article 135 apply in relation to the valuation as they apply in relation to the scheme accounts (within the meaning of that Article).

(10) [<sup>F11</sup>Where paragraph (2) applies, regulations] under paragraph (4) of Article 127, and guidance under paragraph (6) of that Article, apply for the purposes of this Article in relation to the estimated costs within paragraph (2)(c) as they apply for the purposes of Article 127 in relation to protected liabilities within Article 115(1)(c).

[<sup>F12</sup>(10A) The Board may, for the purposes of paragraph (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of the scheme as at the reconsideration time (within the meaning of Article 135).

(10B) A valuation under paragraph (10A) must be prepared in accordance with such requirements as may be prescribed.

(10C) Article 127(3) to (6) applies in relation to a determination under paragraph (2B) and a valuation under paragraph (10A) as it applies in relation to a determination under Article 127(2)(a) and an actuarial valuation obtained under Article 127(2)(b).

(10D) In the application of Article 127 by virtue of paragraph (10C)—

- (a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of Article 135), and
- (b) references to the pre-approval period are to be read as references to the period which begins immediately after the reconsideration time, and ends immediately before the Board first issues a determination notice under this Article.]

(11) <sup>F3</sup> In this Article references to the assets of the scheme do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules.

(12) This Article is subject to Articles 130 and 131 (refusal to assume responsibility for a scheme).

- F1 mod. by SR 2005/91
- F2 Art. 136(1A)(2B) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(2)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F3 mod. by SR 2005/55
- F4 Art. 136(2A)(2B) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(3)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F5 Words in art. 136(3) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(4)(a)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F6 Words in art. 136(3) substituted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(4)(b)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F7 Art. 136(4) omitted (23.7.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(5)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F8 Words in art. 136(5) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(6)(a)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F9 Words in art. 136(5) substituted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(6)(b)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F10 Art. 136(8) omitted (23.7.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(7)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F11 Words in art. 136(10) substituted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(8)**; S.R. 2012/265, art. 2(4)(a)(iii)
- F12 Art. 136(10A)-(10D) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 15(9)**; S.R. 2012/265, art. 2(4)(a)(iii)

**Changes to legislation:**

The Pensions (Northern Ireland) Order 2005, Section 136 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 6 para. 21(2)(c)-(cc) substituted for (b)(c) by [2008 c. 13 \(N.I.\) Sch. 6 para. 11](#)
- art. 2(4)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 21\(3\)\(b\)](#)
- art. 19(1A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(3\)](#)
- art. 19(10A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(5\)](#)
- art. 34(1)-(1B) substituted for art. 34(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 25](#)
- art. 34(7)(da) inserted by [2021 c. 1 Sch. 8 para. 3\(2\)](#)
- art. 39(1)-(1B) substituted for art. 39(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(2\)](#)
- art. 48(1)-(1B) substituted for art. 48(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 27](#)
- art. 75(1)(a)(iib) inserted by [2021 c. 1 Sch. 8 para. 8\(2\)](#)
- art. 110(1)-(1B) substituted for art. 110(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 29](#)
- art. 191(5) added by [2008 c. 13 \(N.I.\) Sch. 9 para. 6](#)
- art. 267(4)(f) and word inserted by [2021 c. 1 Sch. 6 para. 20\(b\)](#)