
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 of closed schemes

Applications and notifications where closed schemes have insufficient assets

141.—(1 ^{F1} If at any time the trustees or managers of a closed scheme become aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme, they must, before the end of the prescribed period beginning with that time, make an application to the Board for it to assume responsibility for the scheme.

(2) Where the Board receives an application under paragraph (1), it must give a copy of the application to the Regulator.

(3 ^{F1} If at any time the Regulator becomes aware that the value of the assets of the scheme is less than the amount of the protected liabilities in relation to the scheme, it must give the Board a notice to that effect.

(4) Where the Board receives a notice under paragraph (3), it must give the trustees or managers of the scheme a notice to that effect.

^{F2}(5) The duty imposed by paragraph (1) does not apply where the trustees or managers of a closed scheme become aware as mentioned in that paragraph by reason of a notice given to them under paragraph (4).

(6) The duty imposed by paragraph (3) does not apply where the Regulator becomes aware as mentioned in that paragraph by reason of a copy of an application made by the trustees or managers of the closed scheme being given to it under paragraph (2).

(7) Regulations may require notices and applications under this Article to be in the prescribed form and to contain the prescribed information.

(8) If the trustees or managers of a closed scheme fail to comply with paragraph (1), 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.

(9 ^{F1} In this Article—

“assets”, in relation to a scheme, do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules;

“closed scheme” has the same meaning as in Article 139.

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F1 mod. by SR 2005/55

F2 mod. by SR 2005/91

Commencement Information

II [Art. 141](#) wholly in operation at 6.4.2007; [art. 141](#) not in operation at date of making see [art. 1\(2\)](#); [Art. 141\(1\)\(7\)\(9\)](#) in operation for certain purposes at 1.11.2006 and wholly in operation at 6.4.2007 by [S.R. 2006/352](#), [art. 2\(3\)](#), [Sch. Pt. 1](#); [art. 141](#) in operation at 6.4.2007 in so far as it is not already in operation by [S.R. 2006/352](#), [art. 2\(5\)](#), [Sch. Pt. 2](#)

Duty to assume responsibility for closed schemes

142.—(1 ^{F3} Where the trustees or managers of a closed scheme—

- (a) make an application under paragraph (1) of Article 141, or
- (b) receive a notice from the Board under paragraph (4) of that Article,

the Board must assume responsibility for the scheme in accordance with this Chapter if the value of the assets of the scheme at the relevant time was less than the amount of the protected liabilities at that time.

(2 ^{F3} In paragraph (1) the reference to the assets of the scheme is a reference to those assets excluding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules.

[^{F4}(3) ^{F3} 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).]

(4) Subject to paragraph (6), paragraph (3) of Article 127 applies for [^{F5}the purposes of this Article as it applies for the purposes] of that Article (and the definitions contained in paragraphs (b) and (d) of paragraph (11) of that Article apply accordingly).

(5) Subject to paragraph (6), the following provisions apply in relation to [^{F6}a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3)(b)] as they apply in relation to [^{F7}a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b)]—

- (a) paragraphs (4) to (7) and (11)(b) and (d) of that Article;
- [^{F8}(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);]
- (b) Article 128 (approval of valuation), other than paragraph (2)(b)(iii) (duty to give copy of approved valuation to employer's insolvency practitioner);
- (c) Article 129 (binding valuations), other than paragraph (3)(c) (duty to give copy of binding valuation to employer's insolvency practitioner).

(6) In the application of Articles 127[^{F9}, 127A] and 129 by virtue of paragraph (4) or (5)—

- (a) paragraphs (3), (5)[^{F10}, (5A), (5B)] and (11)(b) and (c) of Article 127 apply as if the references to “the relevant time” were references to that term as defined in paragraph (8),

^{F11} ...

[^{F12}(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]

(b) paragraph (2) of Article 129 applies as if the reference to Article 112(2)(a) included a reference to paragraph (1) of this Article.

(7) An application under paragraph (1) of Article 141, or notification under paragraph (4) of that Article, is to be disregarded for the purposes of paragraph (1) if it is made or given during an assessment period (see Articles 116 and 143) in relation to the scheme which began before the application was made or notification was given.

(8) In this Article—

“closed scheme” has the same meaning as in Article 139;

“the relevant time” means the time immediately before the application mentioned in paragraph (1)(a) was made, or (as the case may be) the notice mentioned in paragraph (1)(b) was received, by the trustees or managers of the scheme.

F3 mod. by SR 2005/55

F4 Art. 142(3)(3A) substituted for art. 142(3) (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(2)**; S.R. 2012/265, art. 2(4)(a)(ii)

F5 Words in art. 142(4) substituted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(3)**; S.R. 2012/265, art. 2(4)(a)(ii)

F6 Words in art. 142(5) substituted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(4)(a)**; S.R. 2012/265, art. 2(4)(a)(ii)

F7 Words in art. 142(5) substituted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(4)(b)**; S.R. 2012/265, art. 2(4)(a)(ii)

F8 Art. 142(5)(aa) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(4)(e)**; S.R. 2012/265, art. 2(4)(a)(ii)

F9 Words in art. 142(6) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(5)(a)**; S.R. 2012/265, art. 2(4)(a)(ii)

F10 SR 2005/137

F11 Word in art. 142(6)(a) omitted (23.7.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(5)(b)**; S.R. 2012/265, art. 2(4)(a)(ii)

F12 Art. 142(6)(aa) inserted (23.7.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), **Sch. 4 para. 11(5)(e)**; S.R. 2012/265, art. 2(4)(a)(ii)

Closed schemes: further assessment periods

143.—(1) Paragraph (3) applies where—

- (a) an application is made under paragraph (1) of Article 141 in relation to a closed scheme, or
- (b) the trustees or managers of the scheme receive a notice under paragraph (4) of that Article.

(2) For the purposes of paragraph (1) an application under paragraph (1) of Article 141, or notification under paragraph (4) of that Article, is to be disregarded if it is made or given during an assessment period (see Article 116 and this Article) in relation to the scheme which began before the application was made or notification was given.

(3) An assessment period—

- (a) begins when the application is made or the notice is received by the trustees or managers of the scheme, and
- (b) ends when—
 - (i) the trustees or managers receive a transfer notice under Article 144, or

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(ii ^{F13} the conditions in Article 138(5) (closed scheme with sufficient assets to meet protected liabilities etc.) are satisfied in relation to the scheme, whichever first occurs.

(4) In this Article “closed scheme” has the same meaning as in Article 139.

F13 mod. by SR 2005/55

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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\(b\)](#)