

**2005 No. 129**

**PENSIONS**

**The Pension Protection Fund (Provision of Information)  
Regulations (Northern Ireland) 2005**

*Made* - - - - - *16th March 2005*

*Coming into operation* *6th April 2005*

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5)(a), 172, 185(1) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(a) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

**Interpretation**

**2.—(1)** In these Regulations –

“the Order” means the Pensions (Northern Ireland) Order 2005(b);

“appointed representative” means a person –

(a) whose name, address and appointment by the member or beneficiary for the purposes of –

(i) providing information to the Board, or

(ii) receiving information from the Board,

under regulation 3 or 5 have been notified to the Board in a document signed by the member or beneficiary in question or by his legal representative; and

(b) whose appointment has been consented to by the Board;

“assessment period” shall be construed in accordance with Article 116 (assessment periods);

“beneficiary” in relation to an eligible scheme means any person, other than a member of that scheme, who is entitled to compensation in accordance with the pension compensation provisions;

“eligible scheme” shall be construed in accordance with Article 110 (eligible schemes);

“insolvency practitioner” shall be construed in accordance with Article 105 (insolvency event, insolvency date and insolvency practitioner);

“multi-employer scheme” shall be construed in accordance with Article 280(4);

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(a) S.I. 2005/255 (N.I. 1)

(b) The Pensions (Northern Ireland) Order 2005 is modified in its application to partially guaranteed schemes, hybrid schemes and multi-employer schemes by, respectively, S.R. 2005 Nos. 55, 84 and 91

“normal pension age” in relation to any pension or lump sum in respect of which compensation is payable shall be construed in accordance with paragraph 34 of Schedule 6 to the Order (pension compensation provisions);

“pension compensation provisions” shall be construed in accordance with Article 146 (the pension compensation provisions);

“personal representative” means the executor, original or by representation, or administrator for the time being of a deceased person;

“the register” means the register of occupational and personal pension schemes compiled and maintained under section 59 of the Pensions Act 2004(a);

“review decision” shall be construed in accordance with Article 189(1)(a) (review and reconsideration by the Board of reviewable matters); and

“transfer notice” shall be construed in accordance with Article 144 (transfer notice).

(2) Subject to paragraph (3), in these Regulations, “employer”, in relation to an occupational pension scheme which has no active members, includes every person who was the employer of persons in the description of employment to which the scheme relates immediately before the time at which the scheme ceased to have any active members in relation to it.

(3) In these Regulations, “employer”, in relation to a multi-employer scheme, or a section of a multi-employer scheme, includes –

(a) in the case of a scheme which has no active members, every person who was the employer of persons in the description of employment to which the scheme, or section, relates immediately before the time at which the scheme, or section, ceased to have any active members in relation to it unless, after that time –

(i) a debt under Article 75 of the 1995 Order(b) (deficiencies in the assets) becomes due from that person to the scheme, or section, and

(ii) either –

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section; or

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers; and

(b) in any other case, any person who has ceased to be the employer of persons in the description of employment to which the scheme, or section, relates unless –

(i) at the time when he so ceased, the scheme, or section, was not being wound up and continued to have active members in relation to it, and

(ii) a debt under Article 75 of the 1995 Order became due at that time from that person to the scheme, or section, and either –

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section; or

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers.

(4) In these Regulations any reference to a numbered Article is a reference to the Article of the Order bearing that number.

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(a) 2004 c. 35

(b) Article 75 is amended by Article 248 of the Pensions (Northern Ireland) Order 2005

### **Information to be provided by the Board**

3.—(1) In this regulation –

“insolvency event” shall be construed in accordance with Article 105;

“qualifying insolvency event” shall be construed in accordance with Article 111 (duty to assume responsibility for schemes following insolvency event); and

“segregated scheme” means a multi-employer scheme which is divided into two or more sections where –

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section; and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

(2) Where the Board receives a notice under Article 104(2) (duty to notify insolvency events in respect of employers) from an insolvency practitioner that an insolvency event has occurred in relation to an employer, and –

- (a) the scheme to which the notice relates is an eligible scheme; or
- (b) in the case of a multi-employer scheme which is a segregated scheme, the section to which the notice relates is an eligible section,

it shall, within the period of 28 days beginning with its receipt of that notice, provide that insolvency practitioner, the Regulator and the trustees or managers of that scheme or section with the information described in paragraph (3).

(3) The information to be provided under paragraph (2) is –

- (a) where the insolvency event is not a qualifying insolvency event, that the insolvency event is not such an insolvency event; or
- (b) where the insolvency event is a qualifying insolvency event, that the insolvency event is such an insolvency event and the date on which the assessment period began.

(4) Where the Board –

- (a) receives, during the assessment period, an application for a loan from the trustees or managers of a scheme under Article 123(2) (loans to pay scheme benefits); and
- (b) decides whether or not it will make a loan to those trustees or managers,

it shall, within the period of 14 days beginning with the day on which it made its decision, notify those trustees or managers of its decision, of the amount that it considers appropriate to lend and of the terms on which it will make the loan.

(5) Where a person is authorised by the Board for the purposes of these Regulations as mentioned in Article 172(1)(b)(ii) (information to be provided to the Board etc.) in relation to a scheme, the Board shall, within 14 days of making that authorisation, notify the identity of the person so authorised to –

- (a) the trustees or managers of that scheme;
- (b) the employer in respect of that scheme; and
- (c) the insolvency practitioner in relation to that employer.

(6) Where the Board has given the trustees or managers of a scheme a transfer notice, the information to be provided by the Board to members and beneficiaries of that scheme shall be determined in accordance with Schedule 1.

### **Information to be provided by trustees or managers**

4.—(1) This regulation applies where there is an assessment period in relation to an eligible scheme.

(2) The information to be provided to –

- (a) the Board; and
- (b) members of that scheme,

by the trustees or managers of that scheme shall be determined in accordance with Schedule 2.

## **Information to be provided by members and beneficiaries and their personal representatives**

5.—(1) This regulation applies where the Board has given the trustees or managers of a scheme a transfer notice.

(2) The information to be provided to the Board by members and beneficiaries of that scheme shall be determined in accordance with Schedule 3.

(3) Where a member or a beneficiary dies, his personal representative shall, within the period of 28 days beginning with the day of the death, notify the Board of the death and provide the death certificate to the Board.

## **Method of providing information**

6.—(1) Where, under these Regulations, any information is to be provided to any person, that information shall be provided in writing.

(2) Where –

(a) under these Regulations, any information is to be provided –

(i) to the Board by any member or beneficiary, or

(ii) by the Board to any member or beneficiary; and

(b) there is an appointed representative in relation to that member or beneficiary,

that information shall be provided by, or to, his appointed representative.

(3) Any document sent, or notification given, by the Board to any member or beneficiary under regulation 3(6) shall include –

(a) the name of the scheme to which it relates or other information sufficient to identify the subject matter of the document or notification;

(b) the address and telephone number of the Board;

(c) the name in legible characters of the sender of the document or giver of the notification; and

(d) the date on which it was sent or given.

(4) Any notification given by the Board to any person under regulation 3(2), (4) or (5) shall include –

(a) the name of the person to whom it is given;

(b) the name of the scheme to which the notification relates;

(c) the pension scheme registration number which is allocated to that scheme in the register;

(d) the address and telephone number of the Board;

(e) the name in legible characters of the giver of the notification; and

(f) the date on which it was given.

(5) Any document sent, or notification given, by any trustees or managers to the Board under regulation 4(2) shall include –

(a) the names of the trustees or managers sending the document or giving the notification;

(b) the name of the scheme to which the document or notification relates; and

(c) the pension scheme registration number which is allocated to that scheme in the register.

(6) Any document sent, or notification given, to the Board by any member under regulation 5(2), or by the personal representative of a deceased member under regulation 5(3), shall include, in relation to that member –

(a) the name, address, date of birth and national insurance number of that member;

(b) the name of the employer in relation to the scheme in which that member's pension rights accrued; and

(c) the address or location of a place of business of that employer.

(7) Any document sent, or notification given, to the Board by any beneficiary under regulation 5(2), or by the personal representative of a deceased beneficiary under regulation 5(3), shall include, in relation to the member from whom that beneficiary has accrued pension

rights, the information described in paragraph (6)(a), (b) and (c) and the name, address, date of birth and national insurance number of that beneficiary.

Sealed with the Official Seal of the Department for Social Development on 16th March 2005.

(L.S.)

*John O'Neill*

A senior officer of the Department for Social Development

SCHEDULE 1

Regulation 3(6)

INFORMATION TO BE PROVIDED BY THE BOARD

1.—(1) In this Schedule –

“interested person” shall be construed in accordance with regulations made under Article 189(2); and  
 “reviewable matter” shall be construed in accordance with Article 188 (meaning of “reviewable matters”).

(2) Information to be provided by the Board to members and beneficiaries shall be determined in accordance with the following Table –

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which or time at which information is to be provided</i>
All members and beneficiaries.	Notification that the Board has assumed responsibility for the scheme, or any part thereof, together with the date on which the Board assumed that responsibility.	The period of two months beginning on the day on which the Board gave the transfer notice to the trustees or managers.
All members and beneficiaries.	The identity of any person authorised by the Board for the purposes of these Regulations as mentioned in Article 172(1)(b)(ii) in relation to the scheme in respect of which the member or beneficiary is receiving or may receive compensation.	Where the Board so authorised a person before it gave the transfer notice, the period of two months beginning on the day on which it gave such notice or, where the Board so authorises a person after it gave that notice, the period of two months beginning on the day on which that person was so authorised.
Any member who makes a request in writing to the Board for it to provide a forecast of his compensation entitlement.	A forecast, determined in accordance with the pension compensation provisions, of the compensation to be paid to him in relation to that scheme.	The period of 28 days beginning on the day when the Board receives the request.
Any member who will attain normal pension age on his next birthday.	<p>1. A forecast, determined in accordance with the pension compensation provisions, of the compensation to be paid to him in relation to that scheme.</p> <p>2. Details of any options to commute which may be exercised by him in relation to that scheme in accordance with paragraph 24 of Schedule 6 to the Order (commutation of periodic compensation) and forecasts, determined in accordance with the pension compensation provisions, of –</p> <p>(a) the lump sum to be paid to him under any such option; and</p> <p>(b) the reduced level of annual compensation payments which he would receive if he exercised any such option.</p>	The period of six months beginning 12 months before the day on which he will attain normal pension age.

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which or time at which information is to be provided</i>
Any member who makes a request in writing to the Board for it to provide – (i) information about any options to commute which may be exercised by him in relation to that scheme in accordance with paragraph 24 of Schedule 6 to the Order, or (ii) a forecast of the lump sum payable to him on the exercise of any such option.	Details of any options to commute available to him, and forecasts, determined in accordance with the pension compensation provisions, of – (a) the lump sum to be paid to him under any such option; and (b) the reduced level of annual compensation payments which he would receive if he exercised any such option.	The period of 28 days beginning on the day on which the Board receives the request.
Any member who makes a request in writing to the Board for it to provide information about any entitlement he may have to early payment of compensation under paragraph 25 of Schedule 6 to the Order (early payment of compensation).	Details of any entitlement he may have to early payment of compensation and a forecast, determined in accordance with the pension compensation provisions, of the periodic compensation and of any lump sum payment payable to him under paragraph 25.	The period of 28 days beginning on the day on which the Board receives the request.
Any member who becomes entitled to compensation under the pension compensation provisions and any beneficiary of such a member where that beneficiary becomes entitled to such compensation.	1. A copy of the determination by the Board of the entitlement to compensation of the member or beneficiary in question. 2. Details of any options to commute which may be exercised by him in relation to that scheme in accordance with paragraph 24 of Schedule 6 to the Order and forecasts, determined in accordance with the pension compensation provisions, of – (a) the lump sum to be paid to him under any such option; and (b) the reduced level of annual compensation payments which he would receive if he exercised any such option.	The period of 28 days beginning on the day on which – (a) the Board gave the transfer notice to the trustees or managers; or (b) the member or beneficiary became entitled to compensation, whichever is the later.
All members and beneficiaries.	Details of any variation in the amounts of payments of compensation payable under that scheme where the variation will result from the operation of paragraph 27, 28, 29 or 30 of Schedule 6 to the Order and the date when the variation will become effective (“the operative date”).	Not less than 28 days before the operative date.

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which or time at which information is to be provided</i>
Any member or beneficiary who is an interested person in relation to a particular reviewable matter.	A statement describing how an application may be made to the Board for the review of that reviewable matter, how it will be considered and the Board's powers on making a review decision.	The period of 28 days beginning on the day on which the Board knew or ought to have known that that reviewable matter had occurred.
Any member who is a party to matrimonial proceedings or who is contemplating such proceedings and who makes a request in writing to the Board for information about his compensation entitlement.	A statement, determined in accordance with the pension compensation provisions, of the compensation to be paid to him in relation to that scheme.	The period of three months beginning on the day on which the Board receives the request, or by the date the Board complies with any court order to provide such information, whichever is the earlier.

## SCHEDULE 2

Regulation 4(2)

### INFORMATION TO BE PROVIDED BY TRUSTEES OR MANAGERS

1.—(1) In this Schedule –

“assessment date” shall be construed in accordance with paragraph 2 of Schedule 6 to the Order;

“hybrid scheme” shall be construed in accordance with Article 280(4);

“notification date” means the day on which the Board notifies the trustees or managers of the scheme in accordance with regulation 3(3)(b) of the date on which the assessment period began;

“partially guaranteed scheme” shall be construed in accordance with Article 280(3);

“relevant contract of insurance” shall be construed in accordance with Article 145(8) (effect of Board assuming responsibility for a scheme);

“reviewable ill health pension” shall be construed in accordance with Article 124 (reviewable ill health pensions);

“valuation” means a valuation, or further valuation<sup>(a)</sup>, which has been –

(a) obtained by the Board in respect of the scheme under –

- (i) Article 127 (Board's obligation to obtain valuation of assets and protected liabilities), or
- (ii) regulation 43 or 59 of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005<sup>(b)</sup>; and

(b) approved by the Board under Article 128(2) (approval of valuation);

“valuation summary” means, in relation to each member of the scheme, a summary of the valuation which contains –

- (a) a summary of the overall assets and liabilities of the scheme;
- (b) details of how that member's entitlement to compensation would be calculated if the Board assumed responsibility for the scheme;
- (c) details of any information the Board holds on that member's pensionable service and accrued rights;
- (d) where there is a pension in payment to that member at the assessment date, the annual amount of that pension; and
- (e) a statement describing how an application may be made to the Board for the review of the Board's decision to approve the valuation under Article 128(2), how it will be considered and the Board's powers on making a review decision; and

“withdrawal notice” means a notice issued under Article 106(2)(b) (insolvency practitioner's duty to issue notices confirming status of scheme) or Article 114(3) (Board's duty where application or notification received under Article 113).

<sup>(a)</sup> See Article 144 of the Pensions (Northern Ireland) Order 2005, as modified by regulation 10 of S.R. 2005 No. 55

<sup>(b)</sup> S.R. 2005 No. 91



(2) Information to be provided to the Board and members by trustees or managers shall be determined in accordance with the following Table –

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which information is to be provided</i>
The Board.	In respect of each member of that scheme entitled to a reviewable ill health pension – (a) his name; (b) a description of his position as an employee in relation to the employer in relation to that scheme; (c) the annual amount of his reviewable ill health pension; and (d) the date on which the award of that pension was made.	The period of 28 days beginning on the notification date.
The Board.	1. Details of any legal proceedings by or against any of the trustees or managers of the scheme in their capacity as trustees or managers which are pending immediately before, or in existence on, the assessment date. 2. Details of any relevant contract of insurance which is in being on the assessment date.	The period of 28 days beginning on the notification date.
The Board.	The identity of the maker of any further contributions towards the scheme paid under Article 117 (admission of new members, payment of contributions etc.), together with the amount of any such contributions.	The period of 14 days beginning on the last day of the month in which the contribution was paid.
The Board.	Details of any significant changes – (a) in the investment of the scheme's assets; or (b) in the level of expenditure incurred by the scheme.	The period of 14 days beginning on the day the change took place.
The Board.	Details of any change in the address or telephone number of the trustees or managers.	Before the expiry of the period of five days beginning on the day the change took place.
The Board.	The identity of those individuals within the trustees' or managers' organisation who will have responsibility for providing information to the Board.	The period of 28 days beginning on the notification date.
The Board.	Any change in the identity of – (a) the individuals who have been notified to the Board as having responsibility for providing information to the Board; and (b) the insolvency practitioner.	The period of 14 days beginning on the day the change took place.

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which information is to be provided</i>
All members.	Notification that there is an assessment period in relation to the scheme, together with a description of the effect this will have on the rights and obligations of members of that scheme.	The period of 28 days beginning on the notification date.
All members.	An explanation of the provisions of Chapter 3 of Part III of the Order (pension protection) in so far as they will operate during the assessment period in relation to – (a) benefits payable under the scheme; and (b) contributions towards the scheme, together with an explanation of how, when a withdrawal notice becomes binding, contributions may become payable by or on behalf of the member.	The period of 28 days beginning on the notification date.
Where the scheme is not a hybrid scheme, a multi-employer scheme or a partially guaranteed scheme, all members.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation approved under Article 128(2).
Where the scheme is a hybrid scheme, all members other than those who receive only money purchase benefits.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation approved under Article 128(2).
Where the scheme is a multi-employer scheme, all members who are in the section of the scheme to which the valuation relates.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation, or further valuation, approved under Article 128(2).
Where the scheme is a partially guaranteed scheme, all members who are in the unsecured part of the scheme.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation, or further valuation, approved under Article 128(2).
Where the trustees or managers of a scheme make an application in respect of the scheme in accordance with Article 135 (application for reconsideration), all members.	Notification of the application under Article 135.	The period of 28 days beginning on the day the trustees or managers make that application.

SCHEDULE 3

Regulation 5(2)

INFORMATION TO BE PROVIDED BY MEMBERS AND BENEFICIARIES

Information to be provided by members and beneficiaries to the Board shall be determined in accordance with the following Table –

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which or time at which information is to be provided</i>
Any member or beneficiary whose address is changed.	Details of any changes in the address of that member or beneficiary.	The period of eight weeks beginning four weeks before the day on which the change will take place.
Any member whose marriage ends in divorce.	Notification of the divorce and a copy of the decree of divorce.	The period of 28 days beginning on the day on which the decree became absolute.
Any member whose circumstances change in a way which – (a) is not otherwise notifiable to the Board under regulation 5; and (b) he has reasonable cause to believe may affect his present or future entitlement or the future entitlement of any person who may become entitled in respect of him.	Details of the change in his circumstances.	The period of three months beginning on the day on which the change took place.
Any member or beneficiary who wishes to make any change to the means by which compensation payments are made to him.	Details of the proposed change and the date on which it is to take effect (“the operative date”).	At least 28 days before the operative date.
Where the member or beneficiary terminates the appointment of his appointed representative, or where there is any change in the address of an appointed representative, the member or beneficiary who appointed that appointed representative.	Notification of the termination or of the change in the address of the appointed representative and the date on which the termination or change became effective.	The period of 28 days beginning on the day on which the termination or change became effective.

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make provision relating to the information which the Board of the Pension Protection Fund (“the Board”), the members and beneficiaries of certain occupational pension schemes and the trustees or managers of such schemes are required to provide where compensation is, or may become, payable by the Board. The Board is established by section 107 of the Pensions Act 2004 to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer and where the pension scheme is underfunded at a certain level.

Regulation 1 provides for citation and commencement and regulation 2 provides for interpretation.

Regulation 3 makes provision as to the information to be provided by the Board to insolvency practitioners in relation to insolvent employers who sponsored an occupational pension scheme, trustees or managers of such schemes where an insolvency event has occurred in relation to the sponsoring employer, such employers and the members and beneficiaries of such schemes.

Regulation 4 makes provision as to the information to be provided by the trustees or managers of such schemes to the Board and to members and beneficiaries of such schemes.

Regulation 5 makes provision as to the information to be provided by members and beneficiaries of such schemes to the Board.

Regulation 6 makes provision as to the method of providing information and as to certain details to be included whenever information is provided by the Board to members or beneficiaries, or by members or beneficiaries to the Board.

The Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005 No. 48 (C. 5)) provides for the coming into operation of Articles 2(5)(a), 172 and 185(1) on 25th February 2005 for the purpose of authorising the making of regulations and on 6th April 2005 for all other purposes.

As these Regulations are made before the end of the period of six months beginning with the coming into operation of the provisions of the Order by virtue of which they are made, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(c) of that Article.

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