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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 91**

**PENSIONS**

**The Pension Protection Fund (Multi-employer Schemes)  
(Modification) Regulations (Northern Ireland) 2005**

*Made - - - - 11th March 2005  
Coming into operation in accordance with  
regulation 1(1)*

The Department for Social Development, in exercise of the powers conferred on it by Articles 2(5) (a), 280(1)(b) and (2)(b) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005<sup>(1)</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**PART I**

**PRELIMINARY**

**Citation, commencement and interpretation**

**1.—(1)** These Regulations may be cited as the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 and shall come into operation –

- (a) for the purposes of this regulation, and regulations 2(2)(b), 3(2)(d), 5(2)(d), 9(1)(a) and (2)(a), 14(3)(b), 15(2)(e), 18(c), 24(1)(a) and (2)(a), 28(4)(b), 29(2)(d), 32(d), 38(1)(d)(i), 39(1)(a) and (2)(a), 45(4)(b), 46(2)(d), 49(d), 54(1)(d)(i), 55(1)(a) and (2)(a), 63(1) and 73(3) for the purpose only of the making of regulations, on 14th March 2005;
- (b) for the purposes of regulations 4, 16, 30, 47, 63(2), 73(2)(b) and 74(2) on 1st April 2005; and
- (c) for all other purposes on 6th April 2005.

**(2)** In these Regulations –

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

“multi-employer section” means a section of a segregated scheme which has at least two employers in relation to that section;

“pensionable service” has the meaning given by section 66(2) of the Pension Schemes Act (interpretation of Part IV); 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.

(3) In the application of Part III of the Order and of these Regulations to a multi-employer scheme, or a section of a multi-employer scheme, “employer” includes –

- (a) in the case of a scheme which has no active members, every person who was the employer of persons in the description or category 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<sup>(2)</sup> (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 or category 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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(2) Article 75 is amended by Article 248 of the Pensions (Northern Ireland) Order 2005

## PART II

### SEGREGATED SCHEMES: SINGLE EMPLOYER SECTIONS

#### Application and effect

2.—(1) This regulation applies to a section of a segregated scheme with one employer in relation to that section in circumstances where –

- (a) an insolvency event occurs in relation to an employer in relation to that section; or
  - (b) the trustees or managers of the scheme become aware that the employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed under paragraph (1)(b) of Article 113 (applications and notifications for the purposes of Article 112).
- (2) Except as otherwise provided in this Part, in a case to which this regulation applies –
- (a) Part III of the Order, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and
  - (b) references in Part III of the Order, except in Chapter 4, to –
    - (i) “scheme rules” shall be read as if they were references to “scheme rules relating to the section”;
    - (ii) “the scheme” shall be read as if they were references to “the section”;
    - (iii) “the employer” shall be read as if they were references to “the employer in relation to the section”, and
    - (iv) “trustees or managers of the scheme” shall, in relation to a section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.
- (3) Paragraph (2) shall not have effect in relation to Article 157 (initial levy).

#### Notification of insolvency events, confirmation of scheme status etc.

3.—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (1) for “in the case of an occupational pension scheme, an insolvency event occurs in relation to the employer” there were substituted “in the case of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”), an insolvency event occurs in relation to an employer in relation to a section of the scheme in circumstances where that employer is the only employer in relation to that section”; and
  - (b) after paragraph (2) there were inserted the following paragraph –
    - “(2A) Where the trustees or managers of a section of a segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of the scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –
- (a) in paragraph (1) for “employer in relation to an occupational pension scheme” there were substituted “employer in relation to a section of a segregated scheme in circumstances where that employer is the only employer in relation to that section”;

- (b) in paragraph (2) –
    - (i) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant section of the scheme”, and
    - (ii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant section of the scheme”;
  - (c) in paragraph (4) for “in relation to the scheme” there were substituted “in relation to the relevant section of the scheme”;
  - (d) in paragraph (5) –
    - (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a section of a segregated scheme”, and
    - (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”;
  - (e) after paragraph (6) there were inserted the following paragraph –

“(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –
- “(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –
- (a) in paragraph (1) for “in relation to an occupational pension scheme” there were substituted “in relation to a section of a segregated scheme in circumstances where the employer is the only employer in relation to that section”; and
  - (b) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (5) Article 109 (binding notices confirming status of scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –
- (a) after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
  - (b) in paragraph (4)(b) for “ceases to be involved with the scheme” there were substituted “ceases to be involved with the relevant section of the scheme”.

### **Eligible schemes**

4.—(1) Except as otherwise provided in this Part, for the purposes of Part III of the Order, except Chapter 4, as it applies in the case of a section of a segregated scheme to which regulation 2 applies, references to “an eligible scheme” shall be read as if they were references to a section of a segregated scheme in circumstances where that section, if it were a scheme, would not be –

- (a) a money purchase scheme; or
- (b) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b) (eligible schemes).

(2) Paragraph (1) shall not apply for the purposes of Articles 157 to 164 (the levies).

### **Board’s duty where application or notification received under Article 113**

5.—(1) Article 113 (applications and notifications for the purposes of Article 112) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a section of a segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

- (b) after paragraph (5) there were inserted the following paragraph –

“(5A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 114 (Board’s duty where application or notification received under Article 113) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) after “a scheme rescue is not possible” there were inserted “in relation to the relevant section of a segregated scheme”;

- (b) in paragraph (3) after “a scheme rescue has occurred” there were inserted “in relation to that section”;

- (c) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;

- (d) in paragraph (5) –

- (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a section of a segregated scheme”, and

- (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”; and

- (e) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the

trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Protected liabilities and assessment periods**

6.—(1) Article 115 (protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

“(1) For the purposes of this Chapter the protected liabilities, in relation to a section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”), are –

- (a) the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the section in accordance with this Chapter,
- (b) a proportion of the liabilities of the scheme as a whole as calculated in the Board’s valuation of the relevant section of the scheme under Article 127 which are not liabilities to, or in respect of, members,
- (c) the estimated cost of winding up the section.”.

(2) Article 116 (assessment periods) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraphs (2) and (4) after “an assessment period” there were inserted “in relation to a section of a segregated scheme”.

### **Directions and power to validate contraventions of Article 119**

7.—(1) Article 118 (directions) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) –
  - (i) for “the scheme’s protected liabilities do not exceed its assets” there were substituted “the protected liabilities of the section do not exceed its assets”, and
  - (ii) for “in relation to the scheme” there were substituted “in relation to the segregated scheme in question”; and
- (b) in paragraph (3)(a)(i) for “the trustees or managers” there were substituted “any trustees or managers”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Valuation of assets**

8.—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (2) for “the scheme” there were substituted “the relevant section of the scheme”.

(2) Article 128 (approval of valuation) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (1) for “obtains a valuation in respect of a scheme” there were substituted “obtains a valuation in respect of the relevant section of the scheme”; and
- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a segregated scheme receive a copy of a valuation of the relevant section of the scheme under paragraph (2), they must send a copy of that valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 129 (binding valuations) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) for “in relation to a scheme” there were substituted “in relation to the relevant section of the scheme”; and
- (b) after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding valuation, they must send a copy of the notice and the binding valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Refusal to assume responsibility for a scheme**

9.—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) Regulations may provide that where the Board is satisfied that any section of a segregated scheme is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;

- (b) in paragraph (2) for “a scheme” there were substituted “a section of the scheme”;
- (c) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

- (d) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a new section of a segregated scheme or a section of a new segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) The Board must refuse to assume responsibility for a new section of a segregated scheme or a section of a new segregated scheme (“the new section”) under this Chapter where it is satisfied that –

- (a) the new section was established during such period as may be prescribed,
- (b) the employer in relation to the new section was, at the date of establishment of that section, also an employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new section,
- (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme or the old section has or have been made to the new section, and
- (d) the main purpose or one of the main purposes of establishing the new section and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the transfer or transfers, regulations under Article 130 would have operated to prevent such payments in respect of their rights under the old scheme or the old section.”;

(b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(c) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) after paragraph (5) there were inserted the following paragraph –

“(5A) Where the trustees or managers of a section of a segregated scheme receive a copy of a withdrawal notice issued by the Board under this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(b) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Reconsideration and duty to assume responsibility for a scheme following reconsideration**

**10.—**(1) Article 135 (application for reconsideration) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in



paragraph (8) in the definition of “protected benefits quotation” for the words from ““protected benefits quotation”, in relation to a scheme, means” to “from the reconsideration time” there were substituted –

““protected benefits quotation”, in relation to a section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the section from the trustees or managers of the scheme, which would provide in respect of each member of the section from the reconsideration time”.

(2) Article 136 (duty to assume responsibility following reconsideration) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

(a) for paragraph (2) there were substituted the following paragraph –

“(2) The Board must assume responsibility in accordance with this Chapter for a section of a segregated scheme if it is satisfied that the value of the assets of the section at the reconsideration time is less than the aggregate of –

- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) a proportion of the amount of liabilities of the scheme as a whole at that time, as calculated in the valuation of the relevant section of the scheme referred to in paragraph (2) of Article 135, which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated cost of winding up the section at that time.”;

(b) after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (3), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(c) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities**

11.—(1) Article 137 (closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2) for “a closed scheme” there were substituted “a closed section of a scheme”;
- (b) in paragraph (5) for “a closed scheme” there were substituted “a closed section of a scheme”; and
- (c) after paragraph (6) there were inserted the following paragraph –

“(6A) Where the trustees or managers of a section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 138 (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2)(a) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible in relation to a section of a segregated scheme but section has sufficient assets to meet the protected liabilities)”;
- (b) in paragraph (6) for “a scheme is wound up” there were substituted “a section of a segregated scheme is wound up”;
- (c) in paragraph (11) for “winding up of a scheme” there were substituted “winding up of a section of a segregated scheme”; and
- (d) in paragraph (12) for “in relation to a scheme” there were substituted “in relation to a section of a segregated scheme”.

(3) Article 139 (treatment of closed schemes) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

“(1) In this Article “closed scheme” means a section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under Article 137 to continue as a closed section of the scheme.”.

(4) Article 141 (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Transfer notices and assumption of responsibility**

**12.—**(1) Article 144 (transfer notice) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (1) for “required to assume responsibility for a scheme” there were substituted “required to assume responsibility for a section of a segregated scheme”;
- (b) after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where the trustees or managers of a section of a segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
- (c) for paragraph (6) there were substituted the following paragraph –
  - “(6) The Board must give a copy of the transfer notice under paragraph (2) to –
    - (a) the Regulator, and
    - (b) an insolvency practitioner acting in relation to the employer in relation to the section of the scheme in respect of which the transfer notice is issued.”.

(2) Article 145 (effect of Board assuming responsibility for a scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if –

- (a) in paragraph (2)(b) after “obligations” there were inserted “to or in respect of members of that section”; and
- (b) in paragraph (4)(a) after “to or in respect of persons” there were inserted “who are or were members of that section”.

(3) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a section of a segregated multi-employer scheme”.

### **The pension compensation provisions**

**13.**—(1) Article 146 (the pension compensation provisions) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (1) –

- (a) for “in relation to a scheme” there were substituted “in relation to a section of a segregated scheme”;
- (b) in sub-paragraphs (a) and (b) after “members” there were inserted “of that section”;
- (c) in sub-paragraph (c) after “payable” there were inserted “to or in respect of members of that section”; and
- (d) in sub-paragraph (d) at the end there were added “payable to or in respect of members of that section”.

(2) Article 147 (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (2)(a) after “to any member” there were inserted “of that section”.

(3) Article 150 (duty to pay scheme benefits unpaid at assessment date etc.) shall be modified in its application to a section of a segregated scheme to which regulation 2 applies so that it shall be read as if in paragraph (1) for “assumes responsibility for a scheme” there were substituted “assumes responsibility for a section of a segregated scheme with only one employer in relation to that section of the scheme”.

## **PART III**

### **SEGREGATED SCHEMES: MULTI-EMPLOYER SECTIONS WITHOUT REQUIREMENT FOR PARTIAL WIND UP ON WITHDRAWAL OF PARTICIPATING EMPLOYER**

#### **Application and effect**

**14.**—(1) This paragraph applies to a multi-employer section of a segregated scheme the rules of which do not provide for the partial winding up of the section when an employer in relation to the section ceases to participate in the scheme in circumstances where –

- (a) an insolvency event occurs in relation to more than one of the employers in relation to the section at a time when those employers are the only employers in relation to that section; or
- (b) the trustees or managers of the scheme become aware that more than one of the employers in relation to the section are unlikely to continue as a going concern and meet the requirements prescribed under paragraph (1)(b) of Article 113 (applications and

notifications for the purposes of Article 112) at a time when those employers are the only employers in relation to that section.

(2) This paragraph applies to a multi-employer section of a segregated scheme the rules of which do not provide for the partial winding up of the section where an employer in relation to the section ceases to participate in the scheme in circumstances where –

- (a) an insolvency event occurs in relation to one or more of the employers in relation to the section of the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers; or
- (b) the trustees or managers of the scheme become aware that one or more of the employers in relation to the section are unlikely to continue as a going concern and meet the requirements prescribed under paragraph (1)(b) of Article 113 (applications and notifications for the purposes of Article 112) at a time when an insolvency event has occurred in relation to all other employers in relation to that section and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.

(3) Except as otherwise provided in this Part, in the case of a multi-employer section of a segregated scheme to which this regulation applies –

- (a) Part III of the Order, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and
- (b) references in Part III of the Order, except in Chapter 4, to –
  - (i) “scheme rules” shall be read as if they were references to “scheme rules relating to the section”;
  - (ii) “the scheme” shall be read as if they were references to “the section”;
  - (iii) “the employer” shall be read as if they were references to “an employer in relation to the section”, and
  - (iv) “trustees or managers of the scheme” shall, in relation to a multi-employer section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.

(4) Paragraph (3) shall not have effect in relation to Article 157 (initial levy).

**Notification of insolvency events, confirmation of scheme status etc.**

**15.**—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified so that it shall be read as if, in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies –

- (a) for paragraph (1) there were substituted the following paragraph –
 

“(1) This Article applies where, in the case of a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”), an insolvency event occurs in relation to any employer in relation to that section.”; and
- (b) after paragraph (2) there were inserted the following paragraph –
 

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
  - “(1) This Article applies where an insolvency event has occurred in relation to any employer in relation to a multi-employer section of a segregated scheme.”;
- (b) in paragraph (2) –
  - (i) for “the employer” there were substituted “each employer”;
  - (ii) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant section of the scheme”, and
  - (iii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant section of the scheme”;
- (c) in paragraph (3)(a) for “the employer” there were substituted “an employer”;
- (d) in paragraph (4) –
  - (i) for “the employer” there were substituted “an employer”, and
  - (ii) for “in relation to the scheme” there were substituted “in relation to the section”;
- (e) in paragraph (5) –
  - (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”, and
  - (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”;
- (f) in paragraph (6) for “the employer” there were substituted “an employer”; and
- (g) after paragraph (6) there were inserted the following paragraph –
  - “(6A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice issued by an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
  - “(1) This Article applies where the Board receives a notice under Article 106(6) (“the Article 106 notice”) in relation to an employer in relation to a multi-employer section of a segregated scheme at a time when the Board has previously received such a notice in relation to all the other employers in relation to that section of the scheme.”;
- (b) for paragraph (2) there were substituted the following paragraph –
  - “(2) The Board must determine whether to approve the Article 106 notice received in relation to that employer.”; and
- (c) after paragraph (4) there were inserted the following paragraph –
  - “(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (1) for “This Article applies where in relation to an occupational pension scheme” there were substituted “This Article applies where in relation to a section of a segregated scheme with at least two employers in relation to that section”;
- (b) in paragraph (1)(a) and (b) for “the employer” there were substituted “an employer”;
- (c) in paragraph (4) –
  - (i) in sub-paragraph (d) for “the employer” there were substituted “an employer”, and
  - (ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and
- (d) after paragraph (4) there were inserted the following paragraph –
 

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(5) Article 109 (binding notices confirming status of scheme) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Eligible schemes**

**16.**—(1) Except as otherwise provided in this Part, for the purposes of Part III of the Order, except Chapter 4, as it applies in the case of a section of a multi-employer scheme to which paragraph (1) or (2) of regulation 14 applies, references to an “eligible scheme” shall be read as if they were references to a multi-employer section of a segregated scheme in circumstances where that section, if it were a scheme, would not be –

- (a) a money purchase scheme; or
  - (b) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b).
- (2) Paragraph (1) shall not apply for the purposes of Articles 157 to 164 (the levies).

### **Duty to assume responsibility for schemes**

**17.**—(1) Article 111 (duty to assume responsibility for schemes following insolvency event) shall only have effect in relation to a multi-employer section of a segregated scheme in the circumstances described in regulation 14(1) and (2) and, for those purposes, shall be modified so that it shall be read as if –

- (a) in its application to a multi-employer section of a segregated scheme to which paragraph (1) of regulation 14 applies –
  - (i) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where a qualifying insolvency event has occurred in relation to more than one of the employers in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when those employers are the only employers in relation to that section of the scheme.”, and

(ii) for paragraph (3) there were substituted the following paragraph –

“(3) For the purposes of this Article, an insolvency event (“the current event”) in relation to an employer in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme is a qualifying insolvency event if –

- (a) it occurs simultaneously in relation to more than one employer at a time when those employers are the only employers in relation to the scheme,
- (b) it occurs on or after the day appointed under Article 110(2), and
- (c) it –
  - (i) is the first insolvency event to occur in relation to that employer on or after that day, or
  - (ii) does not occur within an assessment period (see Article 116) in relation to that section of the scheme which began before the occurrence of the current event.”; and

(b) in its application to a multi-employer section of a segregated scheme to which paragraph (2) of regulation 14 applies –

(i) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where a qualifying insolvency event has occurred in relation to one or more of the employers in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”; and

(ii) for paragraph (3) there were substituted the following paragraph –

“(3) For the purposes of this Article, an insolvency event (“the current event”) in relation to an employer in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme is a qualifying insolvency event if –

- (a) it occurs –
  - (i) simultaneously in relation to one or more of the employers at a time when that or those employers are the only employers in relation to the scheme, or
  - (ii) in relation to an employer at a time when an insolvency event has also occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers,
- (b) it occurs on or after the day appointed under Article 110(2), and
- (c) it –
  - (i) is the first insolvency event to occur in relation to that employer on or after that day, or

(ii) does not occur within an assessment period (see Article 116) in relation to that section of the scheme which began before the occurrence of the current event.”.

(2) Article 112 (duty to assume responsibility for schemes following application or notification) shall be modified so that it shall be read as if, in its application to a multi-employer section of a segregated scheme to which –

(a) paragraph (1) of regulation 14 applies, for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, the trustees or managers of the scheme –

(a) make an application under paragraph (1) of Article 113 (“an Article 113 application”) in relation to more than one employer in relation to that section of the scheme at a time when those employers are the only employers in relation to that section of the scheme, or

(b) receive a notification from the Board under paragraph (5)(a) of that Article (“an Article 113 notification”) in relation to more than one employer in relation to that section of the scheme at a time when those employers are the only employers in relation to that section of the scheme.”;

(b) paragraph (2) of regulation 14 applies, for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, the trustees or managers of the scheme –

(a) make an application under paragraph (1) of Article 113 (“an Article 113 application”) in relation to one or more of the employers in relation to that section of the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, or

(b) receive a notification from the Board under paragraph (5)(a) of that Article (“an Article 113 notification”) in relation to one or more of the employers in relation to that section of the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”.

(3) Article 113 (applications and notifications for the purposes of Article 112) shall be modified so that it shall be read as if, in its application to a multi-employer section of a segregated scheme to which –

(a) paragraph (1) of regulation 14 applies –

(i) for paragraph (1) there were substituted the following paragraph –

“(1) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that –

(a) more than one employer in relation to that section of the scheme is unlikely to continue as a going concern at a time when those employers are the only employers in relation to that section of the scheme, and



- (b) the prescribed requirements are met in relation to those employers, they must make an application to the Board for it to assume responsibility for the section under Article 112.”;
  - (ii) after paragraph (1) there were inserted the following paragraph –
    - “(1A) Where the trustees or managers of a multi-employer section of a segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
  - (iii) after paragraph (5) there were inserted the following paragraph –
    - “(5A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;
- (b) paragraph (2) of regulation 14 applies –
- (i) for paragraph (1) there were substituted the following paragraph –
    - “(1) Where the trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that –
      - (a) one or more employers in relation to that section of the scheme is unlikely to continue as a going concern at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, and
      - (b) the prescribed requirements are met in relation to those employers, they must make an application to the Board for it to assume responsibility for the section under Article 112.”;
  - (ii) after paragraph (1) there were inserted the following paragraph –
    - “(1A) Where the trustees or managers of a multi-employer section of a segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
  - (iii) after paragraph (5) there were inserted the following paragraph –
    - “(5A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Board’s duty where application or notification received under Article 113**

**18.** Article 114 (Board’s duty where application or notification received under Article 113) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (2) after “a scheme rescue is not possible” there were inserted “in relation to a multi-employer section of a segregated scheme”;
- (b) in paragraph (3) after “a scheme rescue has occurred” there were inserted “in relation to that section”;
- (c) in paragraph (5) –

- (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”, and
- (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a section”;
- (d) after paragraph (4) there were inserted the following paragraph –
  - “(4A) Where the trustees or managers of a section of a segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
- (e) after paragraph (7) there were inserted the following paragraph –
  - “(7A) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Protected liabilities**

**19.** Article 115 (protected liabilities) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

- “(1) For the purposes of this Chapter the protected liabilities, in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”) are –
  - (a) the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the section in accordance with this Chapter,
  - (b) a portion of the liabilities of the scheme as a whole as calculated in the Board’s valuation of the relevant section of the scheme under Article 127, which are not liabilities to, or in respect of, members,
  - (c) the estimated cost of winding up the section.”.

### **Assessment periods**

**20.** Article 116 (assessment periods) shall be modified so that it shall be read as if, in its application to a multi-employer section of a segregated scheme to which –

- (a) paragraph (1) of regulation 14 applies –
  - (i) in paragraph (2) –
    - (aa) for “in relation to an eligible scheme” there were substituted “in relation to a multi-employer section of an eligible scheme which is, for the purposes of this Part, an eligible scheme”;
    - (bb) for “the employer” there were substituted “an employer”;
    - (cc) after “an assessment period” there were inserted “in relation to the section”;
  - (ii) in paragraph (4) for “in relation to an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a)” there were

substituted “in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a) in respect of more than one employer at a time when those employers are the only employers in relation to that section of the scheme”; and

- (b) paragraph (2) of regulation 14 applies –
  - (i) in paragraph (2) –
    - (aa) for “in relation to an eligible scheme” there were substituted “in relation to a multi-employer section of an eligible scheme which is, for the purposes of this Part, an eligible scheme”;
    - (bb) for “the employer” there were substituted “an employer”;
    - (cc) after “an assessment period” there were inserted “in relation to a multi-employer section of an eligible scheme”, and
  - (ii) in paragraph (4) for “in relation to an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a)” there were substituted “in relation to a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a) in respect of one or more of the employers at a time when an insolvency event has occurred in relation to all other employers in relation to that section of the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”.

## **Directions**

**21.** Article 118 (directions) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (2) –
  - (i) for “the scheme’s protected liabilities do not exceed its assets” there were substituted “the protected liabilities of the section do not exceed its assets”, and
  - (ii) for “in relation to the scheme” there were substituted “in relation to the segregated scheme in question”; and
- (b) in paragraph (3)(a)(i) for “the trustees or managers” there were substituted “any trustees or managers”.

## **Restrictions on winding up, discharge of liabilities etc. and power to validate contraventions of Article 119**

**22.—**(1) Article 119 (restrictions on winding up, discharge of liabilities etc.) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

“(2A) An employer in relation to a multi-employer section of a segregated scheme must not cease to participate in the scheme during an assessment period.”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (2)(c) for “in relation to the employer, or if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer, or if there is no such insolvency practitioner, that employer”; and
- (b) after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all employers in relation to the scheme.”.

### **Valuation of assets**

**23.**—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if in paragraph (2) for “the scheme” there were substituted “the relevant section of the scheme”.

(2) Article 128 (approval of valuation) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (1) for “obtains a valuation in respect of a scheme” there were substituted “obtains a valuation in respect of the relevant section of the scheme”;
- (b) in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (c) after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a valuation from the Board under paragraph (2), they must send a copy of that valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 129 (binding valuations) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (2) for “in relation to a scheme” there were substituted “in relation to the relevant section of the scheme”;
- (b) in paragraph (3)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (c) after paragraph (3) there were inserted the following paragraph –
  - “(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of a binding valuation, they must send a copy of the notice and the binding valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Refusal to assume responsibility for a scheme**

**24.**—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

- “(1) Regulations may provide that where the Board is satisfied that any multi-employer section of a segregated scheme is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;
- (b) in paragraph (2) –
- (i) for “a scheme” there were substituted “a section of the scheme”, and
- (ii) in sub-paragraph (b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”;
- (c) after paragraph (2) there were inserted the following paragraph –
- “(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;
- (d) in paragraph (4)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (e) after paragraph (4) there were inserted the following paragraph –
- “(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –
- (a) for paragraph (1) there were substituted the following paragraph –
- “(1) The Board must refuse to assume responsibility for a new multi-employer section of a segregated scheme (“the new section”) under this Chapter where it is satisfied that –
- (a) the new section was established during such period as may be prescribed,
- (b) an employer in relation to the new section was, at the date of establishment of that section, also the employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new section,
- (c) a transfer or transfers of, or a transfer payment or transfer payments in respect of, any rights of members under the old scheme or the old section has or have been made to the new section, and
- (d) the main purpose or one of the main purposes of establishing the new section and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the transfer or transfers, regulations under Article 130 would have operated to prevent such payments in respect of their rights under the old scheme or the old section.”;
- (b) in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”;

- (c) after paragraph (2) there were inserted the following paragraph –
- “(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;
- (d) in paragraph (4)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (e) after paragraph (4) there were inserted the following paragraph –
- “(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –
- (a) in paragraph (5)(c) for “the employer” there were substituted “any employer”;
- (b) after paragraph (5) there were inserted the following paragraph –
- “(5A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice issued by the Board under this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;
- (c) in paragraph (7)(c) for “the employer” there were substituted “any employer”; and
- (d) after paragraph (7) there were inserted the following paragraph –
- “(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities**

25.—(1) Article 135 (application for reconsideration) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if in paragraph (8) in the definition of “protected benefits quotation” for the words from ““protected benefits quotation”, in relation to a scheme, means” to “from the reconsideration time” there were substituted –

““protected benefits quotation”, in relation to a section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the section from the trustees or managers of the scheme, which would provide in respect of each member of the section from the reconsideration time”.

(2) Article 136 (duty to assume responsibility following reconsideration) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) for paragraph (2) there were substituted the following paragraph –

- “(2) The Board must assume responsibility in accordance with this Chapter for a multi-employer section of a segregated scheme if it is satisfied that the value of the assets of the section at the reconsideration time is less than the aggregate of –
- (a) the amount quoted in the protected benefits quotation accompanying the application,
  - (b) a proportion of the amount of the liabilities of the scheme as a whole at that time, as calculated in the valuation of the relevant section of the scheme referred to in paragraph (2) of Article 135, which are not liabilities to, or in respect of, members of the scheme,
  - (c) the estimated costs of winding up the section at that time.”;
- (b) after paragraph (3) there were inserted the following paragraph –
- “(3A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (3), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
- (c) after paragraph (7) there were inserted the following paragraph –
- “(7A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (3) Article 137 (closed schemes) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –
- (a) in paragraph (2) for “a closed scheme” there were substituted “a closed section of the scheme”;
  - (b) in paragraph (5) for “a closed scheme” there were substituted “a closed section of the scheme”; and
  - (c) after paragraph (6) there were inserted the following paragraph –
- “(6A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (4) Article 138 (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –
- (a) in paragraph (2)(a) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible in relation to a multi-employer section of a segregated scheme but section has sufficient assets to meet the protected liabilities)”;
  - (b) in paragraph (6) for “scheme is wound up” there were substituted “multi-employer section of a segregated scheme is wound up”;
  - (c) in paragraph (11) for “winding up of a scheme” there shall be substituted “winding up of a multi-employer section of a segregated scheme”; and
  - (d) in paragraph (12) for “in relation to a scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”.

(5) Article 139 (treatment of closed schemes) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

“(1) In this Article “closed scheme” means a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under Article 137 to continue as a closed section of the scheme.”.

(6) Article 141 (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Transfer notices and assumption of responsibility for a scheme**

**26.**—(1) Article 144 (transfer notice) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (1) for “required to assume responsibility for a scheme” there were substituted “required to assume responsibility for a multi-employer section of a segregated scheme”;
- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a multi-employer section of a segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;

- (c) for paragraph (6) there were substituted the following paragraph –

“(6) The Board must give a copy of the transfer notice under paragraph (2) to –

- (a) the Regulator, and
- (b) an insolvency practitioner acting in relation to every employer in relation to the section of the scheme in respect of which the transfer notice is issued.”.

(2) Article 145 (effect of Board assuming responsibility for a scheme) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if –

- (a) in paragraph (2)(b) after “obligations” there were inserted “to or in respect of members of that section”; and
- (b) in paragraph (4)(a) after “to or in respect of persons” there were inserted “who are or were members of that section”.

(3) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a multi-employer section of a segregated multi-employer scheme”.



### **The pension compensation provisions**

**27.**—(1) Article 146 (the pension compensation provisions) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that paragraph (1) shall be read as if –

- (a) for “in relation to a scheme” there were substituted “in relation to a multi-employer section of a segregated scheme”;
- (b) in sub-paragraphs (a) and (b) after “members” there were inserted “of that section”;
- (c) in sub-paragraph (c) after “payable” there were inserted “to or in respect of members of that section”; and
- (d) in sub-paragraph (d) at the end there were added “payable to or in respect of members of that section”.

(2) Article 147 (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if in paragraph (2)(a) after “to any member” there were inserted “of that section”.

(3) Article 150 (duty to pay scheme benefits unpaid at assessment date etc.) shall be modified in its application to a multi-employer section of a segregated scheme to which paragraph (1) or (2) of regulation 14 applies so that it shall be read as if in paragraph (1) for “assumes responsibility for a scheme” there were substituted “assumes responsibility for a multi-employer section of a segregated scheme”.

## **PART IV**

### **SEGREGATED SCHEMES: NON-SEGREGATED MULTI-EMPLOYER SECTIONS OF SEGREGATED SCHEMES WITH REQUIREMENT FOR PARTIAL WIND UP ON WITHDRAWAL OF PARTICIPATING EMPLOYER**

#### **Application and effect**

**28.**—(1) This regulation applies to a non-segregated multi-employer section of a segregated scheme in circumstances where –

- (a) an insolvency event occurs in relation to an employer in relation to that section; or
- (b) the trustees or managers of the scheme become aware that an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112).

(2) Where –

- (a) in relation to an employer in relation to a section of a scheme to which this regulation applies, an event described in paragraph (1)(a) or (b) occurs; and
- (b) the requirement in the scheme rules relating to that section for the trustees or managers of the scheme to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to an employer in relation to the section (“the segregation requirement”) would be triggered when an employer in relation to the section ceases to participate in the scheme,

the segregation requirement shall, in relation to the employer referred to in sub-paragraph (a), be deemed to have been triggered immediately after the occurrence of the event described in paragraph (1)(a) or (b) and a segregated part of the section shall be deemed to have been created for

and in respect of any period after the occurrence of that event where a withdrawal event within the meaning of Article 133(2) has not occurred in relation to the segregated part.

(3) In this Part –

“non-segregated multi-employer section” means a multi-employer section of a segregated scheme where, under the scheme rules relating to that section, the trustees or managers of the scheme are required, in circumstances where an employer in relation to that section ceases to participate in the scheme, to segregate such part of the assets of the section as are attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to that employer; and

“segregated part” means a section of a non-segregated multi-employer section which is created when a segregation requirement in the scheme rules relating to that multi-employer section of the scheme has been triggered.

(4) Except as otherwise provided in this Part, in a case where this regulation applies –

(a) Part III of the Order, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and

(b) references in Part III of the Order, except in Chapter 4, to –

(i) “scheme rules” shall be read as if they were references to “rules of the scheme which apply to the segregated part”;

(ii) “the scheme” shall be read as if they were references to “the segregated part”;

(iii) “the employer” shall be read as if they were references to “the employer in relation to the segregated part”, and

(iv) “trustees or managers of the scheme” shall, in relation to a non-segregated multi-employer section of a segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the section”.

(5) Paragraph (4) shall not have effect in relation to Article 157 (initial levy).

#### **Notification of insolvency events, confirmation of scheme status etc.**

**29.**—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

(a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where an insolvency event occurs in relation to an employer in relation to a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”) under the rules of which the trustees or managers are required, in circumstances where an employer in relation to that section of the scheme ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to that employer (“the segregated part”).”; and

(b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme to which this Article applies receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

(a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where an insolvency event has occurred in relation to an employer in relation to a multi-employer section of a segregated scheme and a segregated part of the section is created.”;

(b) in paragraph (2) –

(i) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant segregated part of a multi-employer section of the scheme”, and

(ii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant segregated part of a multi-employer section of the scheme”;

(c) in paragraph (4) –

(i) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant segregated part”, and

(ii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant segregated part”;

(d) in paragraph (5) –

(i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a segregated part of a multi-employer section of a segregated scheme”, and

(ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a part”; and

(e) after paragraph (6) there were inserted the following paragraph –

“(6A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a notice from an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

(a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where the Board receives a notice under Article 106(6) (“the Article 106 notice”) in relation to an employer in relation to a segregated part of a multi-employer section of a segregated scheme.”; and

(b) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

(a) in paragraph (1) for “in relation to an occupational pension scheme” there were substituted “in relation to a segregated part of a multi-employer section of a segregated scheme”; and

(b) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(5) Article 109 (binding notices confirming status of scheme) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Eligible schemes**

**30.**—(1) Except as otherwise provided in this Part, for the purposes of Part III of the Order, except Chapter 4, as it applies in the case of a segregated part to which regulation 28 applies, references to an “eligible scheme” shall be read as if they were references to a segregated part of a multi-employer section of a segregated scheme in circumstances where that segregated part, if it were a scheme, would not be –

- (a) a money purchase scheme; or
- (b) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b).

(2) Paragraph (1) shall not apply for the purposes of Articles 157 to 164 (the levies).

### **Duty to assume responsibility for schemes**

**31.**—(1) Article 111 (duty to assume responsibility for schemes following insolvency event) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in paragraph (2)(a) after “at the relevant time” there were inserted “as determined by the Board’s valuation of the section as a whole under Article 127”.

(2) Article 112 (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in paragraph (2)(a) after “at the relevant time” there were inserted “as determined by the Board’s valuation of the section as a whole under Article 127”.

(3) Article 113 (applications and notifications for the purposes of Article 112) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

(a) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and

(b) after paragraph (5) there were inserted the following paragraph –

“(5A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Board’s duty where application or notification received under Article 113**

**32.** Article 114 (Board’s duty where application or notification received under Article 113) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (2) after “a scheme rescue is not possible” there were inserted “in relation to a segregated part of a multi-employer section of a segregated scheme”;
- (b) in paragraph (3) after “a scheme rescue has occurred” there were inserted “in relation to that segregated part”;
- (c) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;
- (d) in paragraph (5) –
  - (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a segregated part of a multi-employer section of a segregated scheme”, and
  - (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a part”; and
- (e) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Protected liabilities**

**33.** Article 115 (protected liabilities) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

- “(1) Except as otherwise provided, for the purposes of this Chapter the protected liabilities, in relation to a segregated part which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”) are –
  - (a) the cost of securing benefits for and in respect of members of the segregated part of a multi-employer section of a segregated scheme which correspond to the compensation which would be payable, in relation to the segregated part, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the segregated part in accordance with this Chapter,
  - (b) a proportion of the liabilities of the scheme as a whole as calculated in the Board’s valuation under Article 127, which are not liabilities to, or in respect of, members, and
  - (c) the estimated cost of winding up the segregated part.”.

### **Assessment periods**

34. Article 116 (assessment periods) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in paragraph (2) after “an assessment period” there were inserted “in relation to a segregated part of a multi-employer section of a segregated scheme”.

### **Directions**

35. Article 118 (directions) shall be modified in its application to a non-segregated multi-employer section to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (2) –
  - (i) for “the scheme’s protected liabilities do not exceed its assets” there were substituted “the protected liabilities of the segregated part do not exceed its assets”;
  - (ii) for “in relation to the scheme” there were substituted “in relation to the segregated scheme in question”, and
  - (iii) in sub-paragraph (a) for “the investment of the scheme’s assets” there were substituted “the investment of the assets of the section”; and
- (b) in paragraph (3)(a) for head (i) there were substituted the following head –
  - (i) any trustees or managers of the scheme in relation to which the segregated part relates,”.

### **Restrictions on winding up, discharge of liabilities etc., and power to validate contraventions of Article 119**

36.—(1) Article 119 (restrictions on winding up, discharge of liabilities etc.) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (2) after “the winding up of the scheme” there were inserted “under or by virtue of the scheme rules”; and
- (b) after paragraph (4) there were inserted the following paragraph –
 

“(4A) Where an assessment period has begun in relation to a segregated part of a multi-employer section of a segregated scheme, the trustees or managers of the scheme shall not, without the prior approval of the Board, take any action to discharge or transfer any of the assets in that part or any assets that may be assigned to that part.”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

- “(2A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all employers in relation to the scheme.”.

### **Board to act as creditor of the employer**

37. Article 121 (Board to act as creditor of the employer) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (2) after “due to them by the employer” there were inserted “in respect of the protected liabilities that are included in the segregated part”; and
- (b) after paragraph (3) there were added the following paragraph –

“(3A) Where an amount is paid to the trustees or managers of a multi-employer scheme in respect of any debt owed to the scheme by the employer in relation to a segregated part of a multi-employer section of the scheme which does not relate to the employer’s liabilities to or in respect of members of the scheme who are not designated to that segregated part, that amount shall be applied by the trustees or managers of the scheme towards the liabilities of the scheme as a whole.”.

### **Valuation of assets**

**38.**—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a segregated part to which regulation 28 applies, so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
  - “(1) This Article applies in a case within paragraph (1) of Article 111 or 112 which relates to a segregated part of a multi-employer section of a segregated scheme.”;
- (b) in paragraph (2) for “the scheme” there were substituted “the section as a whole and of the segregated part”;
- (c) in paragraph (7) for “the scheme’s liabilities” there were substituted “the liabilities of the scheme or the segregated part”; and
- (d) in paragraph (11) –
  - (i) in sub-paragraph (a) for ““actuarial valuation”, in relation to the scheme, means a written valuation of the assets and protected liabilities of the scheme” there were substituted ““actuarial valuation”, in relation to the section as a whole and the segregated part, means a written valuation of the assets and protected liabilities of the section as a whole and the segregated part”;
  - (ii) at the end of sub-paragraph (c)(ii) the word “and” were omitted, and
  - (iii) after sub-paragraph (d) there were inserted the following sub-paragraph –
    - “(e) “protected liabilities” means, in relation to a multi-employer section of a segregated scheme, the cost of securing benefits for and in respect of members of the section which correspond to the compensation which would be payable, in relation to the section, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the section in accordance with this Chapter.”.

(2) Article 128 (approval of valuation) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (1) for “obtains a valuation in respect of a scheme under Article 127” there were substituted “obtains a valuation or a further valuation in respect of the section as a whole and of the segregated part under Article 127”; and
- (b) after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a valuation from the Board under paragraph (2), they must send a further copy of that valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(3) Article 129 (binding valuations) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (1) for “a valuation obtained under Article 127 is not binding” there were substituted “a valuation or a further valuation obtained under Article 127 of the section as a whole and of the segregated part is not binding”;
- (b) in paragraph (2) for “in relation to a scheme” there were substituted “in relation to a multi-employer section of a segregated scheme in relation to which there is a segregated part”;
- and
- (c) after paragraph (3) there were inserted the following paragraph –
  - “(3A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding valuation, they must send a copy of the notice and the binding valuation as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Refusal to assume responsibility for a scheme**

**39.**—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
  - “(1) Regulations may provide that where the Board is satisfied that a multi-employer section of a segregated scheme, or a segregated part of such a section, is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that section under this Chapter.”;
- (b) in paragraph (2) for “a scheme” there were substituted “a section of the scheme”;
- (c) after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
- (d) after paragraph (4) there were inserted the following paragraph –
  - “(4A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

(2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
  - “(1) The Board must refuse to assume responsibility for a segregated part of a multi-employer section of a segregated scheme (“the new scheme”) under this Chapter where it is satisfied that –
    - (a) the new scheme was established during such a period as may be prescribed,
    - (b) the employer in relation to the segregated part was, at the date of establishment of the new scheme, also the employer in relation to another scheme (“the old scheme”) or another section of the scheme (“the old section”) established before the new scheme,
    - (c) the assignment of scheme assets made to the new scheme has been made in respect of any rights of members under the old scheme, and



- (d) the main purpose or one of the main purposes of establishing the new scheme and making the transfer or transfers, or transfer payment or transfer payments, was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the transfer or transfers, regulations under Article 130 would have operated to prevent such payments in respect of their rights under the old scheme or the old section.”;
  - (b) after paragraph (2) there were inserted the following paragraph –
    - “(2A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
  - (c) after paragraph (4) there were inserted the following paragraph –
    - “(4A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.
- (3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –
- (a) after paragraph (5) there were inserted the following paragraph –
    - “(5A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
  - (b) after paragraph (7) there were inserted the following paragraph –
    - “(7A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

## **Reconsideration**

**40.**—(1) Article 135 (application for reconsideration) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in paragraph (8) in the definition of “protected benefits quotation” for the words from ““protected benefits quotation”, in relation to a scheme, means” to “from the reconsideration time” there were substituted –

““protected benefits quotation”, in relation to a segregated part of a multi-employer section of a segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the segregated part from the trustees or managers of the scheme, which would provide in respect of each member of the segregated part from the reconsideration time”.

(2) Article 136 (duty to assume responsibility following reconsideration) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

- “(1) This Article applies where an application is made in respect of a segregated part of a multi-employer section of a segregated scheme in accordance with Article 135.”;
- (b) for paragraph (2) there were substituted the following paragraph –
- “(2) The Board must assume responsibility in accordance with this Chapter for a segregated part of a multi-employer section of a segregated scheme if it is satisfied that the value of the assets of the segregated part at the reconsideration time is less than the aggregate of –
- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) a proportion of the amount of the liabilities of the scheme as a whole at that time, as calculated in the Board’s valuation referred to in paragraph (2) of Article 135, which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated costs of winding up the segregated part at that time.”;
- (c) after paragraph (3) there were inserted the following paragraph –
- “(3A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a copy of a determination notice from the Board under paragraph (3), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
- (d) after paragraph (7) there were inserted the following paragraph –
- “(7A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding determination notice, they must send a copy of the notice and the binding notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Closed schemes and requirements to wind up schemes with sufficient assets**

- 41.—**(1) Article 137 (closed schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –
- (a) in paragraph (1) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible in relation to a segregated part of a multi-employer section of a segregated scheme but segregated part has sufficient assets to meet the protected liabilities)”;
- (b) in paragraph (2) for “a closed scheme” there were substituted “a closed section of a scheme”;
- (c) in paragraph (5) for “a closed scheme” there were substituted “a closed section of a scheme”;
- (d) after paragraph (6) there were inserted the following paragraph –
- “(6A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (6), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”; and
- (e) in paragraph (7) for the definition of “full buy-out quotation” there were substituted the following definition –
- ““full buy-out quotation”, in relation to a segregated part of a multi-employer section of a segregated scheme, means a quotation for one or more annuities from one or

more insurers (being companies willing to accept payment in respect of members of the segregated part from the trustees or managers of the scheme) which would provide in respect of each of those members, from a relevant date, benefits in accordance with the member's entitlement or accrued rights, including pension credit rights, under the scheme rules (other than entitlement or rights in respect of money purchase benefits).".

(2) Article 138 (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraph (2)(a) for "(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)" there were substituted "(scheme rescue not possible in relation to a segregated part of a multi-employer section of a segregated scheme but segregated part has sufficient assets to meet the protected liabilities)";
- (b) in paragraph (6) for "a scheme is wound up" there were substituted "a segregated part of a multi-employer section of a segregated scheme is wound up";
- (c) in paragraph (11) for "winding up of a scheme" there were substituted "winding up of a segregated part of a multi-employer section of a segregated scheme"; and
- (d) in paragraph (12) for "in relation to a scheme" there were substituted "in relation to a segregated part of a multi-employer section of a segregated scheme".

(3) Article 139 (treatment of closed schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) In this Article “closed scheme” means a segregated part of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme which is authorised under Article 137 to continue as a closed section of the scheme.”; and
- (b) in paragraph (2) after “The provisions mentioned in paragraph (3)” there were inserted “as they apply to a segregated part of a multi-employer section of a segregated scheme”.

(4) Article 140 (valuations of closed schemes) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) in paragraphs (1) and (2)(a) for “closed schemes” there were substituted “a closed segregated part of a multi-employer section of a segregated scheme”; and
- (b) in paragraph (5) for “a closed scheme” there were substituted “a closed segregated part of a multi-employer section of a segregated scheme”.

(5) Article 141 (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”.

### **Transfer notices and assumption of responsibility for a scheme**

**42.**—(1) Article 144 (transfer notice) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

- (a) after paragraph (1) there were inserted the following paragraph –

“(1A) This Article also applies where the Board is required to assume responsibility for a segregated part of a multi-employer section of a segregated scheme.”;

(b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a segregated part of a multi-employer section of a segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to the trustees or managers of each section of the scheme (if different) and to all the employers in relation to the scheme.”;

(c) after paragraph (4)(3) there were inserted the following paragraph –

“(4B) In a case where the Board is required to assume responsibility for a segregated part of a multi-employer section of a segregated scheme under Article 111, 112, 136 or 142, a transfer notice may not be given until the Board has obtained a further actuarial valuation of the assets and protected liabilities of the section as a whole and of the segregated part under Article 144A as at the date on which it is required to assume responsibility for the segregated part and that valuation has been approved by the Board and become binding.”; and

(d) for paragraph (6) there were substituted the following paragraph –

“(6) The Board must give a copy of the transfer notice under paragraph (2) to –

(a) the Regulator, and

(b) an insolvency practitioner acting in relation to the employer in relation to the segregated part of the multi-employer section of the segregated scheme in respect of which the transfer notice is issued.”.

(2) Article 145 (effect of Board assuming responsibility for a scheme) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if –

(a) in paragraph (2)(b) after “obligations” there were inserted “to or in respect of members of the segregated part”; and

(b) in paragraph (4)(a) after “to or in respect of persons” there were inserted “who are or were members of the segregated part”.

(3) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a segregated part of a multi-employer section of a segregated multi-employer scheme”.

### **Further actuarial valuation of segregated parts**

43. Part III of the Order shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if after Article 144 (transfer notice) there were inserted the following Article –

#### **“Further actuarial valuations of segregated parts**

**144A.**—(1) This Article applies in any case where the Board is required to obtain a further actuarial valuation under Article 144(4B).

(2) The Board must obtain a further actuarial valuation of the assets and protected liabilities of the section as a whole and of the segregated part as at the date on which the Board is required to assume responsibility for the segregated part.

(3) A valuation obtained by the Board under this Article shall have effect as if it were a valuation obtained by the Board under Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities).

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(3) See regulation 10(1)(a) of [S.R. 2005 No. 55](#)

(4) For the purposes of this Article, paragraphs (3), (4), (6) to (8) and (11)(a) of Article 127 shall apply in relation to a valuation obtained under this Article as they apply in relation to a valuation of the section as a whole and of the segregated part obtained under Article 127.

(5) In the application of Article 127 by virtue of this Article –

- (a) paragraphs (5) and (11)(b) of that Article shall apply as if the references to “the relevant time” were to the date on which the Board is required to assume responsibility for the segregated part; and
- (b) references to “assets” do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules which apply to the segregated part.”.

### **The pension compensation provisions**

**44.**—(1) Article 146 (the pension compensation provisions) shall be modified in its application to a segregated part to which regulation 28 applies so that paragraph (1) shall be read as if –

- (a) for “in relation to a scheme” there were substituted “in relation to a segregated part of a multi-employer section of a segregated scheme”;
- (b) in sub-paragraphs (a) and (b) after “members” there were inserted “of that segregated part”;
- (c) in sub-paragraph (c) after “payable” there were inserted “to or in respect of members of that segregated part”; and
- (d) in sub-paragraph (d) at the end there were added “payable to or in respect of members of that segregated part”.

(2) Article 147 (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in paragraph (2)(a) after “to any member” there were inserted “of that segregated part”.

(3) Article 150 (duty to pay scheme benefits unpaid at assessment date etc.) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in paragraph (1) for “assumes responsibility for a scheme” there were substituted “assumes responsibility for a segregated part of a multi-employer section of a segregated scheme”.

## **PART V**

### **NON-SEGREGATED SCHEMES: SCHEMES WITH A REQUIREMENT FOR PARTIAL WIND UP ON THE WITHDRAWAL OF A PARTICIPATING EMPLOYER**

#### **Application and effect**

**45.**—(1) This regulation applies to a non-segregated scheme in circumstances where –

- (a) an insolvency event occurs in relation to an employer in relation to the scheme; or
- (b) the trustees or managers of the scheme become aware that an employer in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112).

(2) Where –

- (a) in relation to an employer in relation to a non-segregated scheme, an event described in paragraph (1)(a) or (b) occurs; and

- (b) the requirement in the scheme rules for the trustees or managers of the scheme to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer in relation to the scheme (“the segregation requirement”) would be triggered when an employer in relation to the scheme ceases to participate in the scheme,

the segregation requirement shall, in relation to the employer referred to in sub-paragraph (a), be deemed to have been triggered immediately after the occurrence of the event described in paragraph (1)(a) or (b) and a segregated part of the scheme shall be deemed to have been created for and in respect of any period after the occurrence of that event where a withdrawal event within the meaning of Article 133(2) has not occurred in relation to the segregated part.

- (3) In this Part –

“non-segregated scheme” means a multi-employer scheme which is not divided into two or more sections under the rules of which the trustees or managers are required, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer; and

“segregated part” means a section of a non-segregated scheme which is created when a segregation requirement in the scheme rules has been triggered.

- (4) Except as otherwise provided in this Part, in a case where this regulation applies –

- (a) Part III of the Order, except Chapter 4, shall be read as if it contained the modifications provided for by this Part; and

- (b) references in Part III of the Order, except in Chapter 4, to –

(i) “scheme rules” shall be read as if they were references to “rules of the scheme which apply to the segregated part”;

(ii) “the scheme” shall be read as if they were references to “the segregated part”;

(iii) “the employer” shall be read as if they were references to “the employer in relation to the segregated part”; and

(iv) “trustees or managers of the scheme” shall, in relation to a segregated part of a non-segregated scheme, be read as if they were references to “trustees or managers with ultimate responsibility for the administration of the segregated part”.

- (5) Paragraph (4) shall not have effect in relation to Article 157 (initial levy).

#### **Notification of insolvency events, confirmation of scheme status etc.**

**46.**—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where an insolvency event occurs in relation to an employer in relation to a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”) under the rules of which the trustees or managers of the scheme are required, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to that employer (“the segregated part”).”; and

- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

(a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where an insolvency event has occurred in relation to an employer in relation to a non-segregated scheme and a segregated part of the scheme is created.”;

(b) in paragraph (2) –

(i) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to a segregated part”, and

(ii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to a segregated part”;

(c) in paragraph (4) –

(i) in sub-paragraph (a) after “a scheme rescue is not possible” there were inserted “in relation to the relevant segregated part”, and

(ii) in sub-paragraph (b) after “a scheme rescue has occurred” there were inserted “in relation to the relevant segregated part”;

(d) in paragraph (5) –

(i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a segregated part of a non-segregated scheme”, and

(ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a part”; and

(e) after paragraph (6) there were inserted the following paragraph –

“(6A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice issued by an insolvency practitioner or former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(3) Article 107 (approval of notices issued under Article 106) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

(a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where the Board receives a notice under Article 106(6) (“the Article 106 notice”) in relation to a segregated part of a non-segregated scheme.”; and

(b) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a determination notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

(a) in paragraph (1) for “This Article applies where, in relation to an occupational pension scheme” there were substituted “This Article applies where, in relation to a segregated part of a non-segregated scheme”; and

(b) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(5) Article 109 (binding notices confirming status of the scheme) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

### **Eligible schemes**

**47.**—(1) Except as otherwise provided in this Part, for the purposes of Part III of the Order, except Chapter 4, as it applies in the case of a segregated part to which regulation 45 applies, references to “an eligible scheme” shall be read as if they were references to a segregated part of the scheme in circumstances where that segregated part, if it were a scheme, would not be –

- (a) a money purchase scheme; or
- (b) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b).

(2) Paragraph (1) shall not apply for the purposes of Articles 157 to 164 (the levies).

### **Duty to assume responsibility for schemes**

**48.**—(1) Article 111 (duty to assume responsibility for schemes following insolvency event) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in paragraph (2)(a) for the words after “at the relevant time” there were substituted “, as determined by the Board’s valuation of the scheme under Article 127, was less than the amount of the protected liabilities of that part as determined by that valuation”.

(2) Article 112 (duty to assume responsibility for schemes following application or notification) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in paragraph (2)(a) for the words after “at the relevant time” there were substituted “, as determined by the Board’s valuation of the scheme under Article 127, was less than the amount of the protected liabilities of that part as determined by that valuation”.

(3) Article 113 (applications and notifications for the purposes of Article 112) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

(a) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a segregated part of a non-segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to all the employers in relation to the scheme.”; and

(b) after paragraph (5) there were inserted the following paragraph –

“(5A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.



### **Board’s duty where application or notification received under Article 113**

**49.** Article 114 (Board’s duty where application or notification received under Article 113) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) in paragraph (2) after “a scheme rescue is not possible” there were inserted “in relation to a segregated part of a non-segregated scheme”;
- (b) in paragraph (3) after “a scheme rescue has occurred” there were inserted “in relation to a segregated part”;
- (c) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”;
- (d) in paragraph (5) –
  - (i) in sub-paragraph (a) for “in relation to an occupational pension scheme” there were substituted “in relation to a segregated part of a non-segregated scheme”, and
  - (ii) in sub-paragraph (b) for “in relation to such a scheme” there were substituted “in relation to such a part”; and
- (e) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

### **Protected liabilities and assessment period**

**50.—(1)** Article 115 (protected liabilities) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if for paragraph (1) there were substituted the following paragraph –

- “(1) Except as otherwise provided, for the purposes of this Chapter the protected liabilities, in relation to a segregated part of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, at a particular time (“the relevant time”) are –
- (a) the cost of securing benefits for and in respect of members of the segregated part which correspond to the compensation which would be payable, in relation to members of that part in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the segregated part in accordance with this Chapter,
  - (b) a proportion of the liabilities of the scheme as a whole, as calculated in the Board’s valuation under Article 127, which are not liabilities to, or in respect of, members,
  - (c) the estimated cost of winding up the segregated part.”.

(2) Article 116 (assessment periods) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in paragraph (2) after “an assessment period” there were inserted “in relation to a segregated part of a non-segregated scheme”.

### **Directions**

**51.** Article 118 (directions) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) in paragraph (2) –

- (i) for “the scheme’s protected liabilities do not exceed its assets” there were substituted “the protected liabilities of the segregated part do not exceed its assets”;
- (ii) for “in relation to the scheme” there were substituted “in relation to the non-segregated scheme in question”, and
- (iii) in sub-paragraph (a) for “the investment of the scheme’s assets” there were substituted “the investment of the assets of the segregated part”; and
- (b) in paragraph (3)(a) in the definition of “relevant person” for paragraph (i) there were substituted the following paragraph –
  - “(i) any trustees or managers of the scheme in relation to which the segregated part relates,”.

### **Restrictions on winding up, discharge of liabilities etc. and power to validate contraventions of Article 119**

**52.**—(1) Article 119 (restrictions on winding up, discharge of liabilities etc.) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) in paragraph (2) after “the winding up of the scheme” there were inserted “under or by virtue of the scheme rules”; and
- (b) after paragraph (4) there were inserted the following paragraph –
  - “(4A) Where an assessment period has begun in relation to a segregated part of a non-segregated scheme, the trustees or managers shall not, without the prior approval of the Board, take any action to discharge or transfer any of the assets in that part or any assets that may be assigned to that part.”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

- “(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

### **Board to act as creditor of the employer**

**53.** Article 121 (Board to act as creditor of the employer) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) in paragraph (2) after “due to them by the employer” there were inserted “in respect of the protected liabilities that are included in the segregated part”; and
- (b) after paragraph (3) there were added the following paragraph –
  - “(3A) Where an amount is paid to the trustees or managers of a non-segregated multi-employer scheme in respect of any debt owed to the scheme by the employer in relation to a segregated part of the scheme which does not relate to the employer’s liabilities to or in respect of members of the scheme who are not designated to that segregated part, that amount shall be applied by the trustees or managers of the scheme towards the liabilities of the scheme as a whole.”.

### **Valuation of assets**

**54.**—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
    - “(1) This Article applies in a case within paragraph (1) of Article 111 or 112 which relates to a non-segregated scheme.”; and
  - (b) in paragraph (2) after “the scheme” there were inserted “as a whole and of the segregated part”;
  - (c) in paragraph (7) for “the scheme’s liabilities” there were substituted “the liabilities of the scheme or the segregated part”; and
  - (d) in paragraph (11) –
    - (i) in sub-paragraph (a) for ““actuarial valuation”, in relation to the scheme, means a written valuation of the assets and protected liabilities of the scheme” there were substituted ““actuarial valuation”, in relation to the scheme as a whole and the segregated part, means a written valuation of the assets and protected liabilities of the scheme as a whole and the segregated part”;
    - (ii) at the end of sub-paragraph (c) the word “and” were omitted, and
    - (iii) after sub-paragraph (d) there were added the following sub-paragraph –
      - “(e) “protected liabilities” means, in relation to a non-segregated scheme, the cost of securing benefits for and in respect of members of the scheme which correspond to the compensation which would be payable, in relation to the scheme, in accordance with the pension compensation provisions (see Article 146) if the Board assumed responsibility for the scheme in accordance with this Chapter.”
- (2) Article 128 (approval of valuation) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –
- (a) in paragraph (1) for “obtains a valuation in respect of a scheme under Article 127” there were substituted “obtains a valuation or a further valuation in respect of the scheme as a whole and of the segregated part under Article 127”; and
  - (b) after paragraph (2) there were inserted the following paragraph –
    - “(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a valuation from the Board under paragraph (2), they must send a copy of that valuation as soon as practicable to all the employers in relation to the scheme.”
- (3) Article 129 (binding valuations) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –
- (a) in paragraph (1) for “a valuation obtained under Article 127 is not binding” there were substituted “a valuation or further valuation obtained under Article 127 in relation to the scheme as a whole and of the segregated part is not binding”;
  - (b) in paragraph (2) for “in relation to a scheme” there were substituted “in relation to a non-segregated scheme in relation to which there is a segregated part”; and
  - (c) after paragraph (3) there were inserted the following paragraph –
    - “(3A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding valuation, they must send a copy of that notice and the binding valuation as soon as practicable to all the employers in relation to the scheme.”

### **Refusal to assume responsibility for a scheme**

**55.**—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
    - “(1) Regulations may provide that where the Board is satisfied that a non-segregated scheme, or a segregated part of such a scheme, is not, for the purposes of this Part, an eligible scheme throughout such period as may be prescribed, the Board must refuse to assume responsibility for that part of the scheme under this Chapter.”;
  - (b) in paragraph (2) for “a scheme” there were substituted “a segregated part of a non-segregated scheme”;
  - (c) after paragraph (2) there were inserted the following paragraph –
    - “(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
  - (d) after paragraph (4) there were inserted the following paragraph –
    - “(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.
- (2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –
- (a) for paragraph (1) there were substituted the following paragraph –
    - “(1) The Board must refuse to assume responsibility for a segregated part of a non-segregated scheme (“the new scheme”) under this Chapter where it is satisfied that –
      - (a) the new scheme was established during such period as may be prescribed,
      - (b) the employer in relation to the segregated part was, at the date of establishment of the new scheme, also an employer in relation to another scheme (“the old scheme”) established before the new scheme,
      - (c) the assignment of scheme assets made to the new scheme has been made in respect of any rights of members under the old scheme, and
      - (d) the main purpose or one of the main purposes of establishing the new scheme and making the transfer or transfers or transfer payment or transfer payments was to enable those members to receive compensation under the pension compensation provisions in respect of their rights under the new section in circumstances where, in the absence of the assignment, regulations under Article 130 would have operated to prevent such payments in respect of their rights under the old scheme.”;
  - (b) after paragraph (2) there were inserted the following paragraph –
    - “(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a withdrawal notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
  - (c) after paragraph (4) there were inserted the following paragraph –
    - “(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (4) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.
- (3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) after paragraph (5) there were inserted the following paragraph –
  - “(5A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under this Article, they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
- (b) after paragraph (7) there were inserted the following paragraph –
  - “(7A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

### **Reconsideration**

**56.**—(1) Article 135 (application for reconsideration) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if in paragraph (8) in the definition of “protected benefits quotation” for the words from ““protected benefits quotation”, in relation to a scheme, means” to “from the reconsideration time” there were substituted –

““protected benefits quotation”, in relation to a segregated part of a non-segregated scheme, means a quotation for one or more annuities from one or more insurers, being companies willing to accept payment in respect of the members of the segregated part from the trustees or managers of the scheme, which would provide in respect of each member of the segregated part from the reconsideration time”.

(2) Article 136 (duty to assume responsibility following reconsideration) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
  - “(1) This Article applies where an application is made in respect of a segregated part of a non-segregated scheme in accordance with Article 135.”;
- (b) for paragraph (2) there were substituted the following paragraph –
  - “(2) The Board must assume responsibility in accordance with this Chapter for a segregated part of a non-segregated scheme if it is satisfied that the value of the assets of the segregated part at the reconsideration time is less than the aggregate of –
    - (a) the amount quoted in the protected benefits quotation accompanying the application;
    - (b) a proportion of the amount of the liabilities of the scheme as a whole at that time, as calculated in the Board’s valuation of the segregated part referred to in paragraph (2) of Article 135, which are not liabilities to, or in respect of, members of the scheme;
    - (c) the estimated costs of winding up the segregated part at that time.”;
- (c) after paragraph (3) there were inserted the following paragraph –
  - “(3A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a determination notice from the Board under paragraph (3), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
- (d) after paragraph (7) there were inserted the following paragraph –
  - “(7A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

### **Closed schemes and requirement to wind up schemes with sufficient assets**

57.—(1) Article 137 (closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) in paragraph (1) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible in relation to a segregated part of a non-segregated scheme but segregated part has sufficient assets to meet the protected liabilities)”;
- (b) in paragraph (2) for “a closed scheme” there were substituted “a closed section of a scheme”;
- (c) in paragraph (5) for “a closed scheme” there were substituted “a closed section of a scheme”;
- (d) after paragraph (6) there were inserted the following paragraph –
 

“(6A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a copy of a determination notice from the Board under paragraph (6), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
- (e) in paragraph (7) for the definition of “full buy-out quotation” there were substituted the following definition –

““full buy-out quotation”, in relation to a segregated part of a non-segregated scheme, means a quotation for one or more annuities from one or more insurers (being companies willing to accept payment in respect of members of the segregated part from the trustees or managers of the scheme) which would provide in respect of each of those members, from a relevant date, benefits in accordance with the member’s entitlement or accrued rights, including pension credit rights, under the scheme rules (other than entitlement or rights in respect of money purchase benefits).”.

(2) Article 138 (requirement to wind up schemes with sufficient assets to meet protected liabilities) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if –

- (a) in paragraph (2) for “(scheme rescue not possible but scheme has sufficient assets to meet the protected liabilities)” there were substituted “(scheme rescue not possible in relation to a segregated part of a non-segregated scheme but segregated part has sufficient assets to meet the protected liabilities)”;
- (b) in paragraph (6) for “a scheme is wound up” there were substituted “a segregated part of a non-segregated scheme is wound up”;
- (c) in paragraph (11) for “winding up of a scheme” there were substituted “winding up of a segregated part of a non-segregated scheme”; and
- (d) in paragraph (12) for “in relation to a scheme” there were substituted “in relation to a segregated part of a non-segregated scheme”.

(3) Article 139 (treatment of closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –

- (a) for paragraph (1) there were substituted the following paragraph –
 

“(1) In this Article “closed scheme” means a segregated part of a non-segregated scheme which is, for the purpose of this Part, an eligible scheme which is authorised under Article 137 to continue as a closed section of the scheme.”; and
- (b) in paragraph (2) after “The provisions mentioned in paragraph (3)” there were inserted “as they apply to a segregated part of a non-segregated scheme”.

(4) Article 140 (valuations of closed schemes) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –

- (a) in paragraphs (1) and (2)(a) for “closed schemes” there were substituted “a closed segregated part of a non-segregated scheme which is authorised under Article 137 to continue as a closed section of a scheme”; and
- (b) in paragraph (5) for “closed scheme” there were substituted “closed segregated part of a non-segregated scheme which is authorised under Article 137 to continue as a closed section of a scheme”.

(5) Article 141 (applications and notifications where closed schemes have insufficient assets) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

### **Transfer notices and assumption of responsibility for a scheme**

**58.**—(1) Article 144 (transfer notice) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –

- (a) after paragraph (1) there were inserted the following paragraph –

“(1A) This Article also applies where the Board is required to assume responsibility for a segregated part of a non-segregated scheme.”.
- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a segregated part of a non-segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”;
- (c) after paragraph (4) there were inserted the following paragraph –

“(4B) In a case where the Board is required to assume responsibility for a segregated part of a non-segregated scheme under Article 111, 112, 136 or 142, a transfer notice may not be given until the Board has obtained a further actuarial valuation of the assets and protected liabilities of the scheme as a whole and of the segregated part under Article 144A as at the date on which it is required to assume responsibility for the segregated part and that valuation has been approved by the Board and become binding.”; and
- (d) for paragraph (6) there were substituted the following paragraph –

“(6) The Board must give a copy of the transfer notice under paragraph (2) to –

  - (a) the Regulator, and
  - (b) an insolvency practitioner acting in relation to the employer in relation to the segregated part of the multi-employer scheme in respect of which the transfer notice is issued.”.

(2) Article 145 (effect of Board assuming responsibility for a scheme) shall be modified in its application to a segregated part to which regulation 45 applies, so that it shall be read as if –

- (a) in paragraph (2)(b) after “obligations” there were inserted “to or in respect of members of the segregated part”; and
- (b) in paragraph (4)(a) after “to or in respect of persons” there were inserted “who are or were members of that segregated part”.

(3) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a segregated part to which regulation 45 applies so that it

shall be read as if for “an occupational pension scheme” there were substituted “a segregated part of a non-segregated multi-employer scheme”.

### **Further actuarial valuation of segregated parts**

**59.** Part III of the Order shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if after Article 144 (transfer notice) there were inserted the following Article –

#### **“Further actuarial valuations of segregated parts**

**144A.**—(1) This Article applies in any case where the Board is required to obtain a further actuarial valuation under Article 144(4B).

(2) The Board must obtain a further actuarial valuation of the assets and protected liabilities of the scheme as a whole and of the segregated part as at the date on which the Board is required to assume responsibility for that segregated part.

(3) A valuation obtained by the Board under this Article shall have effect as if it were a valuation obtained by the Board under Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities).

(4) For the purposes of this Article, paragraphs (3), (4), (6) to (8) and (11)(a) of Article 127 shall apply in relation to a valuation of the scheme as a whole and of the segregated part obtained under this Article as they apply in relation to a valuation obtained under Article 127.

(5) In the application of Article 127 by virtue of this Article –

- (a) paragraphs (5) and (11)(b) of that Article shall apply as if the references to “the relevant time” were to the date on which the Board is required to assume responsibility for the segregated part; and
- (b) references to “assets” do not include assets representing the value of any money purchase benefits under the scheme rules which apply to the segregated part.”.

### **The pension compensation provisions**

**60.**—(1) Article 146 (the pension compensation provisions) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in paragraph (1) –

- (a) for “in relation to a scheme” there were substituted “in relation to a segregated part of a non-segregated scheme”;
- (b) in sub-paragraphs (a) and (b) after “members” there were inserted “of that segregated part”;
- (c) in sub-paragraph (c) after “payable” there were inserted “to or in respect of members of that part”; and
- (d) in sub-paragraph (d) at the end there were added “payable to or in respect of members of that segregated part”.

(2) Article 147 (adjustments to be made where the Board assumes responsibility for a scheme) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in paragraph (2)(a) after “to any member” there were inserted “of that part”.

(3) Article 150 (duty to pay scheme benefits unpaid at assessment date etc.) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in paragraph (1) for “assumes responsibility for a scheme” there were substituted “assumes responsibility for a segregated part of a non-segregated scheme”.



## PART VI

### NON-SEGREGATED SCHEMES: SCHEMES WITHOUT PROVISION FOR PARTIAL WIND UP ON WITHDRAWAL OF A PARTICIPATING EMPLOYER

#### Application and effect

**61.**—(1) This paragraph applies to a multi-employer scheme which is not divided into two or more sections (“non-segregated scheme”) the rules of which do not provide for the partial winding up of the scheme when an employer in relation to the scheme ceases to participate in the scheme in circumstances where –

- (a) an insolvency event occurs in relation to more than one of the employers in relation to the scheme at a time when those employers are the only employers in relation to the scheme; or
- (b) the trustees or managers of the scheme become aware that more than one of the employers in relation to the scheme are unlikely to continue as a going concern and meet the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112) at a time when those employers are the only employers in relation to the scheme.

(2) This paragraph applies to a non-segregated scheme the rules of which do not provide for the partial winding up of the scheme when an employer in relation to the scheme ceases to participate in the scheme in circumstances where –

- (a) an insolvency event occurs in relation to one or more of the employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers; or
- (b) one or more of the employers in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112) at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.

#### Notification of insolvency events, confirmation of scheme status etc.

**62.**—(1) Article 104 (duty to notify insolvency events in respect of employers) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where, in the case of a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”), an insolvency event occurs in relation to any employer in relation to the scheme.”; and

- (b) after paragraph (2) there were inserted the following paragraph –

“(2A) Where the trustees or managers of a non-segregated scheme receive a notice from an insolvency practitioner under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(2) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where an insolvency event has occurred in relation to any employer in relation to a non-segregated scheme.”;

- (b) in paragraph (2) for “the employer” there were substituted “each employer”;
- (c) in paragraph (3)(a) for “the employer” there were substituted “an employer”;
- (d) in paragraph (4) for “the employer” there were substituted “an employer”;
- (e) in paragraph (6) for “the employer” there were substituted “an employer”; and
- (f) after paragraph (6) there were inserted the following paragraph –

“(6A) Where the trustees or managers of a non-segregated scheme receive a notice issued by an insolvency practitioner or a former insolvency practitioner under paragraph (6), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(3) Article 107 (approval of notices issued under Article 106) shall be modified so that it shall be read as if, in its application to a multi-employer scheme to which paragraph (1) or (2) of regulation 61 applies –

- (a) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where the Board receives a notice under Article 106(6) (“the Article 106 notice”) in relation to any employer in relation to a non-segregated scheme at a time when the Board has previously received such a notice in relation to all the other employers in relation to that scheme.”;

- (b) for paragraph (2) there were substituted the following paragraph –

“(2) The Board must determine whether to approve the Article 106 notices received in relation to that employer.”;

- (c) in paragraph (4) –

- (i) in sub-paragraph (d) for “in relation to the employer” there were substituted “in relation to an employer”; and

- (ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and

- (d) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a determination notice issued by the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(4) Article 108 (Board’s duty where there is a failure to comply with Article 106) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

- (a) in paragraph (1) for “This Article applies where, in relation to an occupational pension scheme” there were substituted “This Article applies where, in relation to a non-segregated scheme”;

- (b) in paragraph (1)(a) and (b) for “the employer” there were substituted “an employer”;

- (c) in paragraph (4) –

- (i) in sub-paragraph (d) for “in relation to the employer” there were substituted “in relation to an employer”, and

- (ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and

- (d) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice issued by the Board under Article 106 by virtue of this Article, they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(5) Article 109 (binding notices confirming status of scheme) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

(a) in paragraph (3) –

- (i) in sub-paragraph (d) for “the employer” there were substituted “an employer”; and
- (ii) in sub-paragraph (e) for “in relation to the employer, the employer” there were substituted “in relation to an employer, that employer”; and

(b) after paragraph (3) there were inserted the following paragraph –

“(3A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under paragraph (3) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

### **Eligible schemes**

**63.**—(1) Article 110 (eligible schemes) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if in paragraph (1) for “an occupational pension scheme” there were substituted “a non-segregated scheme”.

(2) Paragraph (1) shall not have effect in relation to Article 157 to 164 (the levies).

### **Duty to assume responsibility for schemes**

**64.**—(1) Article 111 (duty to assume responsibility for schemes following insolvency event) shall only have effect in relation to a non-segregated scheme in the circumstances described in regulation 61(1) and (2) and, for those purposes, shall be modified so that it shall be read as if –

(a) in its application to a non-segregated scheme to which paragraph (1) of regulation 61 applies –

(i) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where a qualifying insolvency event has occurred in relation to more than one employer in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when those employers are the only employers in relation to the scheme.”, and

(ii) for paragraph (3) there were substituted the following paragraph –

“(3) For the purposes of this Article, an insolvency event (“the current event”) in relation to an employer in relation to an eligible scheme is a qualifying insolvency event if –

- (a) it occurs simultaneously in relation to more than one employer at a time when those employers are the only employers in relation to the scheme,
- (b) it occurs on or after the day appointed under Article 110(2), and
- (c) it –

- (i) is the first insolvency event to occur in relation to that employer on or after that day, or

- (ii) does not occur within an assessment period (see Article 116) in relation to the scheme which began before the occurrence of the current event.”; and
  - (b) in its application to a non-segregated scheme to which paragraph (2) of regulation 61 applies –
    - (i) for paragraph (1) there were substituted the following paragraph –
      - “(1) This Article applies where a qualifying insolvency event has occurred in relation to one or more of the employers in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”; and
    - (ii) for paragraph (3) there were substituted the following paragraph –
      - “(3) For the purposes of this Article, an insolvency event (“the current event”) in relation to an employer in relation to an eligible scheme is a qualifying insolvency event if –
        - (a) it occurs –
          - (i) simultaneously in relation to one or more of the employers at a time when that or those employers are the only employers in relation to the scheme, or
          - (ii) in relation to an employer at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers,
        - (b) it occurs on or after the day appointed under Article 110(2), and
        - (c) it –
          - (i) is the first insolvency event to occur in relation to that employer on or after that day, or
          - (ii) does not occur within an assessment period (see Article 116) in relation to the scheme which began before the occurrence of the current event.”.
- (2) Article 112 (duty to assume responsibility for schemes following application or notification) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which –
- (a) paragraph (1) of regulation 61 applies, for paragraph (1) there were substituted the following paragraph –
    - “(1) This Article applies where, in relation to a non-segregated scheme, the trustees or managers of the scheme –
      - (a) make an application under paragraph (1) of Article 113 (“an Article 113 application”) in relation to more than one employer in relation to the scheme at a time when those employers are the only employers in relation to the scheme, or
      - (b) receive a notification from the Board under paragraph (5)(a) of that Article (“an Article 113 notification”) in relation to more than one employer in relation to the scheme at a time when those employers are the only employers in relation to the scheme.”;
  - (b) paragraph (2) of regulation 61 applies, for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where, in relation to a non-segregated scheme, the trustees or managers of the scheme –

- (a) make an application under paragraph (1) of Article 113 (“an Article 113 application”) in relation to one or more employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, or
- (b) receive a notification from the Board under paragraph (5)(a) of that Article (“an Article 113 notification”) in relation to one or more employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers.”.

### **Applications and notifications**

**65.**—(1) Article 113 (applications and notifications for the purposes of Article 112) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which –

- (a) paragraph (1) of regulation 61 applies –
  - (i) for paragraph (1) there were substituted the following paragraph –

“(1) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that –

    - (a) more than one of the employers in relation to the scheme is unlikely to continue as a going concern at a time when those employers are the only employers in relation to the scheme, and
    - (b) the prescribed requirements are met in relation to those employers,

they must make an application to the Board for it to assume responsibility for the scheme under Article 112.”;
  - (ii) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a non-segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to all the employers in relation to the scheme.”; and
  - (iii) after paragraph (5) there were inserted the following paragraph –

“(5A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
- (b) paragraph (2) of regulation 61 applies –
  - (i) for paragraph (1) there were substituted the following paragraph –

“(1) Where the trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme become aware that –

    - (a) one or more of the employers in relation to the scheme is unlikely to continue as a going concern at a time when an insolvency event has also occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to act in relation to each of those employers, and
    - (b) the prescribed requirements are met in relation to those employers,

they must make an application to the Board for it to assume responsibility for the scheme under Article 112.”;

(ii) after paragraph (1) there were inserted the following paragraph –

“(1A) Where the trustees or managers of a non-segregated scheme make an application to the Board under paragraph (1), they must issue a notice to that effect as soon as practicable to all the employers in relation to the scheme.”;

(iii) in paragraph (4)(a) and (b) for “the employer” there were substituted “an employer”, and

(iv) after paragraph (5) there were inserted the following paragraph –

“(5A) Where the trustees or managers of a non-segregated scheme receive a copy of a notice from the Board under paragraph (5), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”.

(2) Article 114 (Board’s duty where application or notification received under Article 113) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies –

(a) after paragraph (4) there were inserted the following paragraph –

“(4A) Where the trustees or managers of a non-segregated scheme receive a copy of notice from the Board under paragraph (4), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and

(b) after paragraph (7) there were inserted the following paragraph –

“(7A) Where the trustees or managers of a non-segregated scheme receive a notice from the Board under paragraph (7) together with a copy of the binding notice, they must send a copy of the notice and the binding notice as soon as practicable to all the employers in relation to the scheme.”.

### **Assessment periods**

**66.** Article 116 (assessment periods) shall be modified so that it shall be read as if, in its application to a non-segregated scheme to which –

(a) paragraph (1) of regulation 61 applies –

(i) in paragraph (2) –

(aa) for “in relation to an eligible scheme” there were substituted “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme”;

(bb) for “the employer” there were substituted “an employer”; and

(cc) after “an assessment period” there were inserted “in relation to the scheme”, and

(ii) in paragraph (4) for “in relation to an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a), an assessment period” there were substituted “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a) in respect of more than one employer in relation to the scheme at a time when those employers are the only employers in relation to the scheme, an assessment period in relation to the scheme”;

(b) paragraph (2) of regulation 61 applies –

(i) in paragraph (2) –

- (aa) for “in relation to an eligible scheme” there were substituted “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme”;
  - (bb) for “the employer” there were substituted “an employer”; and
  - (cc) after “an assessment period” there were inserted “in relation to the scheme”, and
- (ii) in paragraph (4) for “in relation to an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a), an assessment period” there were substituted “in relation to a non-segregated scheme which is, for the purposes of this Part, an eligible scheme, an application is made under Article 113(1) or a notification is received under Article 113(5)(a) in respect of one or more of the employers in relation to the scheme at a time when an insolvency event has occurred in relation to all other employers in relation to the scheme and, where applicable, an insolvency practitioner is still required by law to be appointed to act in relation to each of those employers, an assessment period”.

#### **Restrictions on winding up, discharge of liabilities etc. and power to validate contraventions of Article 119**

67.—(1) Article 119 (restrictions on winding up, discharge of liabilities etc.) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if after paragraph (2) there were inserted the following paragraph –

“(2A) An employer in relation to a non-segregated scheme must not cease to participate in the scheme during an assessment period.”.

(2) Article 120 (power to validate contraventions of Article 119) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if in paragraph (2)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

#### **Valuation of assets**

68.—(1) Article 128 (approval of valuation) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(2) Article 129 (binding valuations) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if in paragraph (3)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

#### **Refusal to assume responsibility**

69.—(1) Article 130 (schemes which become eligible schemes) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and

- (b) in paragraph (4)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(2) Article 131 (new schemes created to replace existing schemes) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) in paragraph (2)(b)(iii) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”; and
- (b) in paragraph (4)(c) for “in relation to the employer or, if there is no such insolvency practitioner, the employer” there were substituted “in relation to an employer or, if there is no such insolvency practitioner, that employer”.

(3) Article 132 (withdrawal following issue of Article 106(4) notice) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) in paragraph (5)(c) for “the employer” there were substituted “any employer”; and
- (b) in paragraph (7)(c) for “the employer” there were substituted “any employer”.

### **Transfer notices and the pension compensation provisions**

**70.**—(1) Article 144 (transfer notice) shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if –

- (a) in paragraph (1) for “where the Board is required to assume responsibility for a scheme” there were substituted “where the Board is required to assume responsibility for a non-segregated scheme”;
- (b) after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where the trustees or managers of a non-segregated scheme receive a transfer notice from the Board under paragraph (2), they must send a copy of that notice as soon as practicable to all the employers in relation to the scheme.”; and
- (c) for paragraph (6) there were substituted the following paragraph –
  - “(6) The Board must give a copy of the transfer notice under paragraph (2) to –
    - (a) the Regulator, and
    - (b) an insolvency practitioner acting in relation to every employer in relation to the scheme in respect of which the transfer notice is issued.”.

(2) In Schedule 5 to the Order (transfer of property, rights and liabilities to the Board) paragraph 1 shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if for “an occupational pension scheme” there were substituted “a non-segregated multi-employer scheme”.

(3) In Schedule 6 to the Order (pension compensation provisions) paragraph 1 shall be modified in its application to a non-segregated scheme to which paragraph (1) or (2) of regulation 61 applies so that it shall be read as if for “an eligible scheme” there were substituted “a non-segregated multi-employer scheme which is, for the purposes of Part III, an eligible scheme”.



## PART VII

### NON-SEGREGATED SCHEME WITH AN OPTION TO SEGREGATE ON THE WITHDRAWAL OF A PARTICIPATING EMPLOYER

#### Application and effect

71.—(1) This regulation applies to a non-segregated multi-employer scheme in circumstances –

- (a) where –
  - (i) an insolvency event occurs in relation to an employer in relation to the scheme, or
  - (ii) the trustees or managers of the scheme become aware that an employer in relation to the scheme is unlikely to continue as a going concern and meets the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112); and
- (b) where, under the rules of the scheme, the trustees or managers have an option, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer.

(2) In the case of a scheme to which this regulation applies –

- (a) the trustees or managers of the scheme shall be deemed to have exercised the option to segregate under the scheme rules so as to create a segregated part of the scheme unless and until they decide not to exercise that option and have given the Board a notice to this effect as required by Article 104(3A) or 113(1B) as modified by this Part; and
- (b) except as otherwise provided for in paragraph (3), Part III of the Order shall be read in relation to the scheme as if it contained the modifications provided for in Part V of these Regulations.

(3) The exceptions referred to in paragraph (2) are that –

- (a) Article 104 (duty to notify insolvency events in respect of employers) shall be modified so that it shall be read as if –

- (i) for paragraph (1) there were substituted the following paragraph –

- “(1) This Article applies where an insolvency event occurs in relation to an employer in relation to a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”) under the rules of which the trustees or managers of the scheme have an option, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to that employer (“the segregated part”).”, and

- (ii) after paragraph (3) there were inserted the following paragraph –

- “(3A) If, where this Article applies to a non-segregated scheme, the trustees or managers of the scheme decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of the scheme they must, as soon as practicable –

- (a) give a notice to the Board to that effect (a “non-segregation notice”); and
      - (b) send a copy of that notice to –

- (i) an insolvency practitioner acting in relation to the employer, and
  - (ii) the Regulator.”;
- (b) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified so that it shall be read as if after paragraph (2) there were inserted the following paragraph –
  - “(2A) Where an insolvency practitioner acting in relation to an employer in relation to a non-segregated scheme receives a non-segregation notice under Article 104(3A) from the trustees or managers of the scheme, he must as soon as practicable issue a notice under paragraph (2)(b) (a “withdrawal notice”) in relation to the scheme.”; and
- (c) Article 113 (applications and notifications for the purposes of Article 112) shall be modified so that it shall be read as if –
  - (i) for paragraph (1) there were substituted the following paragraph –
    - “(1) The trustees or managers of a non-segregated scheme which is, for the purposes of this Part, an eligible scheme must make an application to the Board for it to assume responsibility for a segregated part of the scheme under Article 112 where they become aware that –
      - (a) an employer in relation to the scheme is unlikely to continue as a going concern, and
      - (b) the prescribed requirements are met in relation to that employer,and where the rules of the scheme contain an option, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, for the trustees or managers to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer.”, and
  - (ii) after paragraph (1A) there were inserted the following paragraphs –
    - “(1B) If, where paragraph (1) applies to a non-segregated scheme, the trustees or managers of the scheme decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of the scheme they must, as soon as practicable –
      - (a) give a notice to the Board to that effect (a “non-segregation notice”); and
      - (b) send a copy of that notice to the Regulator.
    - (1C) Where the Board receives a non-segregation notice from the trustees or managers of a non-segregated scheme under sub-paragraph (a) of paragraph (1B), it must as soon as practicable issue a notice under Article 114(3) (a “withdrawal notice”) in relation to the scheme.”.

## PART VIII

### SEGREGATED SCHEMES: MULTI-EMPLOYER SECTIONS OF SEGREGATED SCHEMES WITH AN OPTION TO SEGREGATE ON THE WITHDRAWAL OF A PARTICIPATING EMPLOYER

#### Application and effect

72.—(1) This regulation applies to a multi-employer section of a segregated scheme in circumstances –

(a) where –

- (i) an insolvency event occurs in relation to an employer in relation to that section, or
- (ii) the trustees or managers of the scheme become aware that an employer in relation to that section is unlikely to continue as a going concern and meets the requirements prescribed under Article 113(1)(b) (applications and notifications for the purposes of Article 112); and

(b) where, under the rules of the scheme, the trustees or managers have an option, in circumstances where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer.

(2) In the case of a multi-employer section of a segregated scheme to which this regulation applies –

- (a) the trustees or managers of that section shall be deemed to have exercised the option to segregate under the scheme rules so as to create a segregated part of the section unless and until they decide not to exercise that option and have given the Board a notice to this effect as required by Article 104(3A) or 113(1B) as modified by this Part; and
- (b) except as otherwise provided for in paragraph (3), Part III of the Order shall be read in relation to that section as if it contained the modifications provided for in Part IV of these Regulations.

(3) The exceptions referred to in paragraph (2) are that –

(a) Article 104 (duty to notify insolvency events in respect of employers) shall be modified so that it shall be read as if –

(i) for paragraph (1) there were substituted the following paragraph –

“(1) This Article applies where an insolvency event occurs in relation to an employer in relation to a section of a multi-employer scheme which is divided into two or more sections (“a segregated scheme”) with at least two employers in relation to that section of the scheme (“a multi-employer section”) under the rules of which the trustees or managers of that section have an option, in circumstances where an employer in relation to that section of the scheme ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of that section by reference to that employer (“the segregated part”).”;

(ii) after paragraph (3) there were inserted the following paragraph –

“(3A) If, where this Article applies to a multi-employer section of a segregated scheme, the trustees or managers of the section decide not to exercise the option to

segregate under the scheme rules so as to create a segregated part of that section they must, as soon as practicable –

- (a) give a notice to the Board to that effect (a “non-segregation notice”); and
  - (b) send a copy of that notice to –
    - (i) an insolvency practitioner acting in relation to the employer, and
    - (ii) the Regulator.”;
- (b) Article 106 (insolvency practitioner’s duty to issue notices confirming status of scheme) shall be modified so that it shall be read as if after paragraph (2) there were inserted the following paragraph –
- “(2A) Where an insolvency practitioner acting in relation to an employer in relation to a multi-employer section of a segregated scheme receives a non-segregation notice under Article 104(3A) from the trustees or managers of that section, he must as soon as practicable issue a notice under paragraph (2)(b) (a “withdrawal notice”) in relation to that section.”; and
- (c) Article 113 (applications and notifications for the purposes of Article 112) shall be modified so that it shall be read as if –
- (i) for paragraph (1) there were substituted the following paragraph –
 

“(1) The trustees or managers of a multi-employer section of a segregated scheme which is, for the purposes of this Part, an eligible scheme must make an application to the Board for it to assume responsibility for a segregated part of the section under Article 112 where they become aware that –

    - (a) an employer in relation to the section is unlikely to continue as a going concern, and
    - (b) the prescribed requirements are met in relation to that employer,

and where the rules of the scheme contain an option, in circumstances where an employer in relation to a section of the scheme ceases to participate in the scheme, for the trustees or managers to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to that employer.”; and
  - (ii) after paragraph (1A) there were inserted the following paragraphs –
 

“(1B) If, where paragraph (1) applies to a multi-employer section of a segregated scheme, the trustees or managers of the section decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of that section they must, as soon as practicable –

    - (a) give a notice to the Board to that effect (a “non-segregation notice”); and
    - (b) send a copy of the notice to the Regulator.

(1C) Where the Board receives a non-segregation notice from the trustees or managers of a multi-employer section of a segregated scheme under subparagraph (a) of paragraph (1B), it must as soon as practicable issue a notice under Article 114(3) (a “withdrawal notice”) in relation to that section.”.

## PART IX

### MULTI-EMPLOYER SCHEMES: THE PENSION PROTECTION LEVIES

#### **Modification of Articles 158 to 164: segregated schemes**

- 73.—(1) This regulation applies to a segregated scheme.
- (2) In the case of a segregated scheme to which this regulation applies –
- (a) Articles 158 to 164 (pension protection levies) shall have effect as if each section of the scheme were a separate scheme; and
  - (b) references in Article 158 to 164 to “an eligible scheme” shall be read as if they were references to a section of the scheme in circumstances where that section, if it were a scheme, would not be –
    - (i) a money purchase scheme; or
    - (ii) a scheme which is a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b) (eligible schemes).
- (3) For the purposes of this regulation, Article 162 (valuations to determine scheme underfunding) shall be modified so that it shall be read as if in paragraph (1)(a) for “an actuarial valuation of the scheme” there were substituted “an actuarial valuation of the section”.

#### **Modification of Articles 158 to 164: non-segregated schemes**

- 74.—(1) This regulation applies to a multi-employer scheme which is not divided into two or more sections (“a non-segregated scheme”).
- (2) In the case of a scheme to which this regulation applies, references to “an eligible scheme” in Articles 158 to 164 (pension protection levies) are to a non-segregated scheme which –
- (a) is not a money purchase scheme; or
  - (b) is not a prescribed scheme or a scheme of a prescribed description under Article 110(1)(b) (eligible schemes).
- (3) Article 158 shall be modified so that it shall be read as if –
- (a) in the case of a scheme to which this regulation applies, the rules of which contain a requirement for the trustees or managers to segregate such part of the assets as is attributable to the liabilities of the scheme to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to an employer in relation to the scheme which would be triggered when such an employer ceased to participate in the scheme, for sub-paragraph (a) of paragraph (2) there were substituted the following sub-paragraph –
    - “(a) a risk-based pension protection levy is a levy assessed by reference to –
      - (i) the difference between the value of the scheme’s assets (disregarding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules) and the amount of its protected liabilities,
      - (ii) where the Board considers it appropriate, the scheme rules containing a requirement for the trustees or managers of the scheme to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer in relation to the scheme in circumstances where that employer ceases to participate in the scheme,

- (iii) except in relation to any prescribed scheme or scheme of a prescribed description, the likelihood of an insolvency event occurring in relation to each employer in relation to the scheme, and
  - (iv) if the Board considers it appropriate, one or more other risk factors mentioned in paragraph (3), and”;
- (b) in the case of a scheme to which this regulation applies, the rules of which give the trustees or managers an option to segregate such part of the assets as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to an employer in relation to that section when an employer in relation to the section ceases to participate in the scheme, for sub-paragraph (a) of paragraph (2) there were substituted the following sub-paragraph –
- “(a) a risk-based pension protection levy is a levy assessed by reference to –
    - (i) the difference between the value of the scheme’s assets (disregarding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules) and the amount of its protected liabilities,
    - (ii) where the Board considers it appropriate, whether or not the scheme rules containing a requirement for the trustees or managers of the scheme to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer in relation to the scheme in circumstances where that employer ceases to participate in the scheme,
    - (iii) except in relation to any prescribed section or section of a prescribed description, the likelihood of an insolvency event occurring in relation to each employer in relation to the scheme, and
    - (iv) if the Board considers it appropriate, one or more other risk factors mentioned in paragraph (3), and”;
- (c) in the case of a scheme to which this regulation applies, the rules of which do not contain a requirement for the trustees or managers to segregate such part of the assets as is attributable to the liabilities of the scheme to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the scheme by reference to an employer in relation to that scheme which would be triggered when such an employer ceased to participate in the scheme, for sub-paragraph (a) of paragraph (2), there were substituted the following sub-paragraph –
- “(a) a risk-based pension protection levy is a levy assessed by reference to –
    - (i) the difference between the value of the scheme’s assets (disregarding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules) and the amount of its protected liabilities,
    - (ii) except in relation to any prescribed scheme or scheme of a prescribed description, the likelihood of an insolvency event occurring in relation to all the employers in relation to the scheme, and
    - (iii) if the Board considers it appropriate, one or more other risk factors mentioned in paragraph (3), and”.

#### **Modification of Articles 158 to 164: multi-employer sections of segregated schemes**

75.—(1) This regulation applies to a multi-employer section of a segregated scheme.

- (2) Article 158 shall be modified so that it shall be read as if –
- (a) in the case of a section of a scheme to which this regulation applies, the rules of which contain a requirement for the trustees or managers to segregate such part of the assets as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to an employer in relation to that section which would be triggered when an employer in relation to the section ceased to participate in the scheme, for sub-paragraph (a) of paragraph (2) there were substituted the following sub-paragraph –
- “ (a) a risk-based pension protection levy is a levy assessed by reference to –
- (i) the difference between the value of the assets of the section (disregarding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules) and the amount of its protected liabilities,
  - (ii) where the Board considers it appropriate, whether or not the scheme rules relating to the section contain a requirement for the trustees or managers of the scheme to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer in relation to the section in circumstances where that employer ceases to participate in the scheme,
  - (iii) except in relation to any prescribed section or section of a prescribed description, the likelihood of an insolvency event occurring in relation to each employer in relation to the section, and
  - (iv) if the Board considers it appropriate, one or more other risk factors mentioned in paragraph (3), and”;
- (b) in the case of a section of a scheme to which this regulation applies, the rules of which give the trustees or managers an option to segregate such part of the assets as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to an employer in relation to that section when an employer in relation to the section ceases to participate in the scheme, for sub-paragraph (a) of paragraph (2) there were substituted the following sub-paragraph –
- “ (a) a risk-based pension protection levy is a levy assessed by reference to –
- (i) the difference between the value of the assets of the section (disregarding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules) and the amount of its protected liabilities,
  - (ii) where the Board considers it appropriate, whether or not the scheme rules relating to the section contain a requirement for the trustees or managers of the scheme to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members by reference to an employer in relation to the section in circumstances where that employer ceases to participate in the scheme,
  - (iii) except in relation to any prescribed section or section of a prescribed description, the likelihood of an insolvency event occurring in relation to each employer in relation to the section, and
  - (iv) if the Board considers it appropriate, one or more other risk factors mentioned in paragraph (3), and”;

- (c) in the case of a section of a scheme to which this regulation applies, the rules of which do not contain a requirement for the trustees or managers to segregate such part of the assets as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of some or all of the members of the section by reference to an employer in relation to that section which would be triggered when an employer in relation to the section ceased to participate in the scheme, for sub-paragraph (a) of paragraph (2), there were substituted the following sub-paragraph –

- “(a) a risk-based pension protection levy is a levy assessed by reference to –
- (i) the difference between the value of the assets of the section (disregarding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules) and the amount of its protected liabilities,
  - (ii) except in relation to any prescribed section or section of a prescribed description, the likelihood of an insolvency event occurring in relation to all the employers in relation to the section, and
  - (iii) if the Board considers it appropriate, one or more other risk factors mentioned in paragraph (3), and”.

Sealed with the Official Seal of the Department for Social Development on 11th March 2005.

L.S.

*John O'Neill*  
A senior officer of the  
Department for Social Development



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## EXPLANATORY NOTE

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

These Regulations modify the provisions of Part III of the Pensions (Northern Ireland) Order 2005 (“the Order”) as they apply in relation to multi-employer schemes. Part III of the Order makes provision in respect of the functions of the Board of the Pension Protection Fund (“the Board”) which is established under section 107 of the Pensions Act 2004 (c. 35).

Part I of the Regulations provides for citation, commencement and general interpretation.

Part II of the Regulations modifies Part III of the Order as it applies in relation to a section of a segregated multi-employer scheme with only one employer in relation to that section so that Part III of the Order can apply in relation to such a section as if it were a separate scheme.

Part III of the Regulations modifies Part III of the Order as it applies in relation to a section of a segregated multi-employer scheme with at least two employers in relation to that section (“a multi-employer section”). It applies where the scheme rules relating to a multi-employer section do not contain any provision for the partial winding up of the section in specified circumstances. Part III of the Order is modified so that an assessment period is not triggered in relation to a multi-employer section of a segregated scheme unless an insolvency event has occurred in relation to all of the employers in relation to that section of the scheme or where all of the employers in relation to that section of the scheme are unlikely to continue as a going concern and meet prescribed requirements.

Part IV of the Regulations modifies Part III of the Order as it applies in relation to a non-segregated multi-employer section of a segregated multi-employer scheme. It applies where the scheme rules relating to that section contain a provision for the partial winding up of the section in certain specified circumstances. Part III of the Order is modified so that an assessment period is triggered in respect of a segregated part of such a multi-employer section which is created when an insolvency event has occurred in relation to an employer in relation to the section or where an employer in relation to the section is unlikely to continue as a going concern and meets prescribed requirements.

Part V of the Regulations modifies Part III of the Order as it applies in relation to a non-segregated multi-employer scheme the rules of which contain a provision for the partial winding up of the scheme in certain specified circumstances. Part III of the Order is modified so that an assessment period is not triggered in respect of a segregated part of such a scheme which is created when an insolvency event has occurred in relation to an employer in relation to the scheme or where an employer in relation to the scheme is unlikely to continue as a going concern and meets prescribed requirements.

Part VI of the Regulations modifies Part III of the Order as it applies in relation to a non-segregated multi-employer scheme the rules of which do not contain a provision for the partial winding up of the section in certain specified circumstances. Part III of the Order is modified so that an assessment period is not triggered in respect of such a scheme unless an insolvency event has occurred in relation to all of the employers in relation to the scheme or where all of the employers in relation to the scheme are unlikely to continue as a going concern and meet prescribed requirements.

Part VII of the Regulations modifies Part III of the Order as it applies in relation to a non-segregated scheme the rules of which contain an option for the trustees or managers of the scheme to segregate such part of the assets of the scheme as is attributable to the scheme’s liabilities to provide pensions or other benefits to or in respect of the pensionable service of members by reference to an employer in relation to the scheme in specified circumstances. The modifications of Part III of the Order which are provided for in Part V of the Regulations are to apply in respect of such a scheme unless the

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

trustees or managers of the scheme decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of the scheme.

Part VIII of the Regulations modifies Part III of the Order as it applies in relation to a multi-employer section of a segregated scheme the rules of which contain an option for the trustees or managers of the scheme to segregate such part of the assets of the section which are attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of members by reference to an employer in relation to the section in specified circumstances. The modifications of Part III of the Order provided for in Part IV of the Regulations are to apply in respect of such a section of such a scheme unless the trustees or managers of the section decide not to exercise the option to segregate under the scheme rules so as to create a segregated part of the section.

Part IX of the Regulations modifies Articles 158 to 164 of the Order (pension protection levies) as they apply in respect of multi-employer schemes or sections of multi-employer schemes to which the Parts II to VIII of these Regulations apply.

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 Article 2(5)(a) on 25th February 2005 for the purpose of authorising the making of regulations and on 6th April 2005 for all other purposes, Article 280(1)(b) on 25th February 2005 for the purpose of authorising the making of regulations and on 8th March 2005 for all other purposes and Article 280(2)(b) on 8th March 2005.

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 2005 Order by virtue of which they are made, the requirement to consult under Article 289(1) of that Order does not apply by virtue of paragraph (2)(c) of that Article.