

2012 No. 270

PENSIONS

**The Pension Protection Fund (Miscellaneous Amendments)
Regulations (Northern Ireland) 2012**

Made - - - - *2nd July 2012*

Coming into operation - *23rd July 2012*

Approved by resolution of the Assembly on 10th December 2012

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 127(3) to (5), 127A(5), 135(4), 140(1), 168(4)(a), 185(1), 189(1), (2) and (5)(a), 192(1) and (2)(b), 280(1)(b) and (2)(b) and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(a).

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and shall come into operation on 23rd July 2012.

Amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations

2.—(1) The Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005(b) are amended in accordance with paragraphs (2) to (20).

(2) In regulation 6(1) (protected liabilities and assessment periods) in substituted Article 115(1)(b) of the Pensions (Northern Ireland) Order 2005 (protected liabilities) for “as calculated in the Board’s valuation of the relevant section of the scheme under Article 127” substitute “as determined by the Board or as calculated in the Board’s valuation of the relevant section of the scheme under Article 127”.

(3) In regulation 8 (valuation of assets)—

(a) for paragraph (1) substitute—

“(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—

(a) in paragraph (2)(b) for “the scheme” there were substituted “the relevant section of the scheme”; and

(a) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes, hybrid schemes and multi-employer schemes by, respectively, S.R. 2005 Nos. 55 (as amended by S.R. 2010 No. 32), 84 and 91 (as amended by S.R. 2005 Nos. 194 and 357, S.R. 2008 No. 132, S.R. 2010 No. 111 and S.R. 2012 No. 1); Article 127 is amended by paragraph 5 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)) and is modified by S.R. 2005 No. 137; Article 127A is inserted by paragraph 6 of Schedule 4 to that Act; Article 135 is amended by paragraphs 9 and 14 of Schedule 4 to that Act

(b) S.R. 2005 No. 91; relevant amending Regulations are S.R. 2005 Nos. 194 and 357

(b) after paragraph (2A) there were inserted the following paragraph—

“(2B) Where the trustees or managers of a segregated scheme receive a copy of a notice under paragraph (2A), 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) after paragraph (1) insert—

“(1A) Article 127A (determinations under Article 127) 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 segregated scheme receive a copy of a determination under paragraph (1), they must send a copy of that determination 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 (3) for “a scheme” there were substituted “the relevant section of a scheme”.

(4) In regulation 10(2)(a)(a) (reconsideration and duty to assume responsibility for a scheme following reconsideration) in substituted Article 136(2)(b) of the Pensions (Northern Ireland) Order 2005 (duty to assume responsibility following reconsideration) for “as calculated in the valuation of the relevant section of the scheme” substitute “as determined by the Board or calculated in the valuation of the relevant section of the scheme”.

(5) In regulation 11 (closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities) after paragraph (4) add—

“(5) Article 142(b) (duty to assume responsibility for 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 after paragraph (3A) there were inserted the following paragraph—

“(3B) Where the trustees or managers of a section of a segregated scheme receive a notice from the Board under paragraph (3A), 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.”.

(6) In regulation 23(c) (valuation of assets)—

(a) for paragraph (1) substitute—

“(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 scheme to which regulation 14 applies so that it shall be read as if—

(a) in paragraph (2)(b) for “the scheme” there were substituted “the relevant section of the scheme”; and

(b) after paragraph (2A) there were inserted the following paragraph—

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

(a) Regulation 10(2) was amended by S.R. 2005 No. 194

(b) Article 142 is amended by paragraph 11 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 and is modified by S.R. 2005 No. 137

(c) Part III (regulations 14 to 27) was substituted by regulation 3(3) of S.R. 2005 No. 357

(b) after paragraph (1) insert—

“(1A) Article 127A (determinations under Article 127) shall be modified in its application to a section of a scheme to which regulation 14 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 multi-employer section of a segregated scheme receive a copy of a determination under paragraph (1), they must send a copy of that determination as soon as practicable to all the employers in relation to that section of the scheme and to the trustees or managers of each section of the scheme (if different).”; and

(b) in paragraph (3) for “a scheme” there were substituted “the relevant section of a scheme”.

(7) In regulation 25 (reconsideration, closed schemes and requirement to wind up schemes with sufficient assets to meet protected liabilities) after paragraph (6) add—

“(7) Article 142 (duty to assume responsibility for closed schemes) shall be modified in its application to a section of a scheme to which regulation 14 applies so that it shall be read as if after paragraph (3A) there were inserted the following paragraph—

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

(8) In regulation 28(4) (application and effect)—

(a) at the end of sub-paragraph (a) omit “and”;

(b) after sub-paragraph (b) add—

“and

(c) Part III of the Order shall be read as if Article 127A were omitted.”.

(9) After regulation 37 (Board to act as creditor of the employer) insert—

“III health pensions

37A.—(1) Article 125(a) (effect of a review) 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 (4) “a determination under Article 127(2)(a) or” were omitted; and

(b) in paragraph (5)(a) “makes a determination under Article 127(2)(a) or” were omitted.

(2) Article 126(1)(b) (Articles 124 and 125: interpretation) shall be modified in its application to a segregated part to which regulation 28 applies so that it shall be read as if in the definition of “scheme valuation” for “127(2)(b)” there were substituted “127”.

(10) In regulation 38 (valuation of assets)—

(a) in paragraph (1)—

(i) for sub-paragraph (b) substitute—

“(b) for paragraph (2) there were substituted the following paragraph—

“(2) For the purposes of determining whether the condition in paragraph (2)(a) of the Article in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the section as a whole and of the segregated part as at the relevant time.”;

(a) Article 125 is amended by paragraph 3 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(b) Article 126 is amended by paragraph 4 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

- (ii) after sub-paragraph (b) insert—
 - “(ba) paragraph (2A) were omitted;
 - (bb) in paragraph (4) for “a determination made under paragraph (2)(a) or an actuarial valuation obtained under paragraph (2)(b)” there were substituted “this Article”;
 - (bc) paragraph (5C) were omitted;
 - (bd) in paragraph (6) “for the purposes of an actuarial valuation obtained under paragraph (2)(b)” were omitted;”;
- (iii) at the end of sub-paragraph (c) omit “and”;
- (iv) after sub-paragraph (c) insert—
 - “(ca) in paragraph (9)—
 - (i) for “requires a determination to be made, or an” there were substituted “requires the”, and
 - (ii) “the determination or” were omitted;
 - (cb) in paragraph (10) for “requires a determination to be made, or an” there were substituted “requires the”; and”;
- (v) in sub-paragraph (d) after head (i) insert—
 - “(ia) in sub-paragraph (b)(ii) “makes a determination under paragraph (2)(a) or” were omitted;”;
- (b) in paragraph (2) for sub-paragraph (a) substitute—
 - “(a) in paragraph (1) for “obtains a valuation in respect of a scheme under Article 127(2)(b)” 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”;
- (c) in paragraph (3) for sub-paragraph (a) substitute—
 - “(a) in paragraph (1) for “a valuation obtained under Article 127(2)(b) 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”;”.
- (11) In regulation 40 (reconsideration) for paragraph (1) substitute—
 - “(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—
 - (a) in paragraphs (2)(b) and (3)(b) for “the determination made by the Board or valuation obtained by the Board in respect of the scheme under Article 127(2)” there were substituted “the valuation obtained by the Board under Article 127 in respect of the segregated part”;
 - (b) in paragraph (6)(a)(ii) and (b)(ii) “determination or” were omitted;
 - (c) in paragraph (8) in the definition of “protected benefits quotation” for the words from “in relation to a scheme” to “the reconsideration time” there were substituted—
 - “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”; and
 - (d) in paragraph (10) for “under Article 127(2)(b)” there were substituted “under that Article”.”.

(12) In regulation 41 (closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets(a))—

(a) in paragraph (2) after sub-paragraph (a) insert—

“(aa) in paragraph (5)(b) “determination made by the Board or” were omitted;”;

(b) after paragraph (5) add—

“(6) Article 142(b) (duty to assume responsibility for 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 (3) there were substituted the following paragraph—

“(3) For the purposes of determining whether the condition in paragraph (1) is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation (within the meaning of Article 127) of the segregated part as at the relevant time.”;

(b) paragraph (3A) were omitted;

(c) in paragraph (5)—

(i) for “a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3)(b)” there were substituted “a valuation obtained under paragraph (3);

(ii) for “a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b)” there were substituted “a valuation obtained under Article 127”, and

(iii) sub-paragraph (aa) were omitted; and

(d) in paragraph (6)—

(i) “, 127A” were omitted, and

(ii) sub-paragraph (aa) were omitted.”.

(13) In regulation 42(1) (transfer notices and assumption of responsibility for a scheme) after sub-paragraph (b) insert—

“(ba) in paragraph (3) for “determination made or valuation obtained under Article 127(2)” there were substituted “valuation obtained under Article 127”;

(bb) in paragraph (4) “determination made or” were omitted;”.

(14) In regulation 45(4) (application and effect)—

(a) at the end of sub-paragraph (a) omit “and”;

(b) after sub-paragraph (b) add—

“and

(c) Part III of the Order shall be read as if Article 127A were omitted.”.

(15) After regulation 53 (Board to act as creditor of the employer) insert—

“III health pensions

53A.—(1) Article 125 (effect of a review) 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 (4) “a determination under Article 127(2)(a) or” were omitted; and

(b) in paragraph (5)(a) “makes a determination under Article 127(2)(a) or” were omitted.

(a) The heading to regulation 41 was substituted by regulation 2(5) of S.R. 2005 No. 194

(b) Article 142 is amended by paragraph 11 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(2) Article 126(1) (Articles 124 and 125: interpretation) shall be modified in its application to a segregated part to which regulation 45 applies so that it shall be read as if in the definition of “scheme valuation” for “127(2)(b)” there were substituted “127(a)”.

(16) In regulation 54 (valuation of assets)—

(a) in paragraph (1)—

(i) for sub-paragraph (b) substitute—

“(b) for paragraph (2) there were substituted the following paragraph—

“(2) For the purposes of determining whether the condition in paragraph (2)(a) of the Article in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the section as a whole and of the segregated part as at the relevant time.”;

(ii) after sub-paragraph (b) insert—

“(ba) paragraph (2A) were omitted;

(bb) in paragraph (4) for “a determination made under paragraph (2)(a) or an actuarial valuation obtained under paragraph (2)(b)” there were substituted “this Article”;

(bc) paragraph (5C) were omitted;

(bd) in paragraph (6) “for the purposes of an actuarial valuation obtained under paragraph (2)(b)” were omitted;”;

(iii) at the end of sub-paragraph (c) omit “and”;

(iv) after sub-paragraph (c) insert—

“(ca) in paragraph (9)—

(i) for “requires a determination to be made, or an” there were substituted “requires the”, and

(ii) “the determination or” were omitted;

(cb) in paragraph (10) for “requires a determination to be made, or an” there were substituted “requires the”; and”;

(v) in sub-paragraph (d) after head (i) insert—

“(ia) in sub-paragraph (b)(ii) “makes a determination under paragraph (2)(a) or” were omitted;”;

(b) in paragraph (2) for sub-paragraph (a) substitute—

“(a) in paragraph (1) for “obtains a valuation in respect of a scheme under Article 127(2)(b)” 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”;

(c) in paragraph (3) for sub-paragraph (a) substitute—

“(a) in paragraph (1) for “a valuation obtained under Article 127(2)(b) 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”;

(17) In regulation 56 (reconsideration) for paragraph (1) substitute—

“(1) Article 135(b) (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—

(a) in paragraphs (2)(b) and (3)(b) for “the determination made by the Board or valuation obtained by the Board in respect of the scheme under Article 127(2)” there were substituted “the valuation obtained by the Board under Article 127 in respect of the segregated part”;

(a) Article 127 is amended by paragraph 5 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(b) Article 135 is amended by paragraphs 9 and 14 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

- (b) in paragraph (6)(a)(ii) and (b)(ii) “determination or” were omitted;
- (c) in paragraph (8) in the definition of “protected benefits quotation” for the words from “in relation to a scheme” to “the reconsideration time” there were substituted—

“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”; and

- (d) in paragraph (10) for “under Article 127(2)(b)” there were substituted “under that Article”.

(18) In regulation 57 (closed schemes, requirement to wind up schemes with sufficient assets and applications and notifications where closed schemes have insufficient assets^(a))—

- (a) in paragraph (2) after sub-paragraph (a) insert—

“(aa) in paragraph (5)(b) “determination made by the Board or” were omitted;”;

- (b) after paragraph (5) add—

“(6) Article 142 (duty to assume responsibility for 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 (3) there were substituted the following paragraph—

“(3) For the purposes of determining whether the condition in paragraph (1) is satisfied the Board must, as soon as reasonably practicable, obtain an actuarial valuation (within the meaning of Article 127) of the segregated part as at the relevant time.”;

- (b) paragraph (3A) were omitted;

- (c) in paragraph (5)—

- (i) for “a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3)(b)” there were substituted “a valuation obtained under paragraph (3)”;

- (ii) for “a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b)” there were substituted “a valuation obtained under Article 127”, and

- (iii) sub-paragraph (aa) were omitted; and

- (d) in paragraph (6)—

- (i) “, 127A” were omitted, and

- (ii) sub-paragraph (aa) were omitted.”.

(19) In regulation 58(1) (transfer notices and assumption of responsibility for a scheme) after sub-paragraph (b) insert—

“(ba) in paragraph (3) for “determination made or valuation obtained under Article 127(2)” there were substituted “valuation obtained under Article 127”;

“(bb) in paragraph (4) “determination made or” were omitted;”.

(20) In regulation 68^(b) (valuation of assets) after “Articles” insert “127A(4)(c)^(c) (determinations under Article 127),”.

(a) The heading to regulation 57 was substituted by regulation 2(6) of S.R. 2005 No. 194

(b) Part VI (regulations 61 to 70) was substituted by regulation 3(4) of S.R. 2005 No. 357

(c) Article 127A is inserted by paragraph 6 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

Amendment of the Pension Protection Fund (Entry Rules) Regulations

3. In regulation 24 of the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005(a) (applications for reconsideration)—

- (a) for paragraph (1)(a) substitute—
 - “(a) either—
 - (i) a protected benefits quotation in relation to the scheme, or
 - (ii) written evidence which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (f) after “binding valuation notice” insert “under Article 129(3) (binding valuations) or a binding determination notice under Article 127A(4) (determinations under Article 127)”;
 - (ii) in sub-paragraphs (h) and (i) at the beginning insert “where the application is accompanied by a protected benefits quotation,”.

Amendment of the Pension Protection Fund (Provision of Information) Regulations

4. In Schedule 2 to the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005(b) (information to be provided by trustees or managers)—

- (a) in paragraph 1(1)—
 - (i) before the definition of “hybrid scheme” insert—
 - ““determination” means a determination made by the Board under Article 127(2)(a);
 - “determination summary” means, in relation to each member of the scheme, a summary of the determination which contains—
 - (a) a summary of the overall assets and liabilities of the scheme;
 - (b) details of how that member’s entitlement to compensation would be calculated if the Board assumed responsibility for the scheme;
 - (c) details of any information the Board holds on that member’s pensionable service and accrued rights;
 - (d) where there is a pension in payment to that member at the assessment date(c), the annual amount of that pension; and
 - (e) a statement describing how an application may be made to the Board for the review of the determination, how it will be considered and the Board’s powers on making a review decision;”;
 - (ii) in the definition of “valuation” in paragraph (a)(i) for “Article 127” substitute “Article 127(2)(b)”;
- (b) in paragraph 1(2) in the Table(d) after the fourteenth entry insert—

“Where the scheme is not a hybrid scheme, a multi-employer scheme or a partially guaranteed scheme, all members.	A copy of the determination summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the determination.
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(a) S.R. 2005 No. 126; regulation 24 was amended by regulation 3(7) of S.R. 2005 No. 194

(b) S.R. 2005 No. 129; relevant amending Regulations are S.R. 2005 No. 357 and S.R. 2006 No. 140

(c) The definition of “the assessment date” was inserted into regulation 2(1) by regulation 5(2)(a)(i) of S.R. 2005 No. 357

(d) The Table was amended by regulation 2(4)(b) of S.R. 2006 No. 140

Where the scheme is a hybrid scheme, all members other than those who receive only money purchase benefits.	A copy of the determination summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the determination.
Where the scheme is a multi-employer scheme, all members who are in the section of the scheme to which the determination relates.	A copy of the determination summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the determination.
Where the scheme is a partially guaranteed scheme, all members who are in the unsecured part of the scheme.	A copy of the determination summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the determination.”

Amendment of the Pension Protection Fund (Valuation) Regulations

5.—(1) The Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005(a) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 1(2) (interpretation)—

- (a) in the definition of “appropriate person” after “Article 127(11)(a)(ii) of the Order” insert “, in the case of an Article 127 determination means the Board”;
- (b) after the definition of “the assessment date”(b) insert—
 - ““Article 127 determination” means a determination by the Board under Article 127(2)(a) of the Order;”;
- (c) for the definition of “Article 127 valuation” substitute—
 - ““Article 127 valuation” means an actuarial valuation under Article 127(2)(b) of the Order;”;
- (d) after that definition insert—
 - ““Article 136 determination” means a determination by the Board for the purposes of Article 136(2B)(c) of the Order;
 - “Article 136(10A) valuation” means a valuation under Article 136(10A) of the Order;
 - “Article 142 determination” means a determination by the Board under Article 142(3)(a) of the Order;”.

(3) After regulation 2 (provision of actuarial valuation to determine scheme underfunding) insert—

“Article 127 determination

2A.—(1) This regulation applies where the Board is making an Article 127 determination in respect of an eligible scheme.

(2) The Board must determine the value of the assets and protected liabilities of that scheme—

- (a) by using the information contained in the most recent Article 162 valuation or an appropriate alternative actuarial valuation;

(a) S.R. 2005 No. 131; relevant amending Regulations are S.R. 2005 No. 357 and S.R. 2007 No. 193

(b) The definition of “the assessment date” was inserted by regulation 6(a) of S.R. 2005 No. 357

(c) Article 136 is amended by paragraph 15 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

- (b) by updating that information in accordance with the statement issued by the Board under Article 127(5C) of the Order; and
 - (c) in accordance with regulations 3(a) and (c), 4, 6(1)(a) and (2), and 7(1) to (4)(c).
- (3) In this regulation—
- “an appropriate alternative actuarial valuation” means a written valuation of the scheme’s assets and liabilities prepared and signed by the actuary;
 - “the actuary” means—
 - (a) the actuary appointed under Article 47(1)(b) of the 1995 Order (professional advisers) in relation to the scheme; or
 - (b) a person who is a Fellow of the Institute and Faculty of Actuaries.”.
- (4) In regulation 3(a) (excluded assets)—
- (a) in paragraph (a) after “Article 127” insert “determination or Article 127”;
 - (b) in paragraph (c) after “Article 127” insert “determination, Article 127 valuation”.
- (5) In regulation 4 (contribution notices, financial support directions and restoration orders) after “prior to the date that” insert “the determination is made or”.
- (6) In regulation 6(1)(a)(b) (valuation of protected rights) after “Article 127” insert “determination or Article 127”.
- (7) In regulation 7 (alternative valuation of assets and protected liabilities in specific cases)—
- (a) in paragraphs (1) and (2) after “Article 127” insert “determination, Article 127 valuation”;
 - (b) in paragraph (4)—
 - (i) omit “an Article 127 valuation”;
 - (ii) in sub-paragraph (a)—
 - (aa) at the beginning insert “an Article 127 determination or an Article 127 valuation,”;
 - (bb) after “in accordance with” insert “the statement issued by the Board under Article 127(5C) or”;
 - (iii) in sub-paragraph (b)—
 - (aa) at the beginning insert “an Article 127 determination or an Article 127 valuation,”;
 - (bb) after “the date” insert “the determination is made under Article 127(2)(a) of the Order or the date”;
 - (cc) in head (ii) after “Article 127” insert “determination or Article 127”;
 - (iv) in sub-paragraph (c)—
 - (aa) at the beginning insert “an Article 127 determination or an Article 127 valuation,”;
 - (bb) in head (ii) after “in accordance with” insert “a statement issued by the Board under Article 127(5C) or”;
 - (v) in sub-paragraphs (d) and (e) insert at the beginning “an Article 127 valuation,”.

(a) Regulation 3 was amended by regulation 3(4) of S.R. 2007 No. 193
 (b) Regulation 6 was amended by regulation 3(5) of S.R. 2007 No. 193

(8) After regulation 7 insert—

“Application of these regulations to applications for reconsideration and by closed schemes

7A.—(1) Regulations 2A, 3(a) and (c), 4, 6(1)(a) and (2), and 7(1) to (4)(c) apply in relation to an Article 136 determination and an Article 142 determination as they apply in relation to an Article 127 determination.

(2) In the application of regulation 2A to Article 136 determinations and Article 142 determinations, the reference in paragraph (2)(a) to the most recent Article 162 valuation is to be read as a reference to the most recent Article 127 or Article 162 valuation.

(3) Regulations 3 to 7 apply in relation to an Article 136(10A) valuation as they apply in relation to an Article 127 valuation.

(4) In the application of regulations 5 and 7 to Article 136(10A) valuations—

- (a) the references to “relevant accounts” are to be read as references to “audited scheme accounts” as defined in Article 135(8)(a) of the Order; and
- (b) the references to “appropriate person” are to be read as references to “person who is a Fellow of the Institute and Faculty of Actuaries”.

(9) After regulation 9 (form and content of Article 127 valuation and notice) insert—

“Form and content of Article 127A notice of determination

9A. Where an Article 127 determination becomes binding, the notice which the Board must issue under Article 127A(4) shall be in writing and shall contain the following information—

- (a) the name or type of notice issued;
- (b) the date on which the notice is issued;
- (c) the name, address and pension scheme registration number of the scheme in respect of which the notice is issued;
- (d) a statement that the Article 127 determination has become binding;
- (e) the name of the employer in relation to the scheme in respect of which the notice is issued;
- (f) whether the notice issued by the Board contains any restricted information and, if so, the nature of the restriction.”.

Amendment of the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations

6.—(1) The Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005(b) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (time for making an application for a review decision)—

(a) in paragraph (1)(a)—

- (i) after “an application concerning” insert “the issue of a determination under Article 127(2)(a)(c) or”;
- (ii) after “trustees or managers of the scheme provide” insert “a summary of the determination or”;

(a) Article 135 is amended by paragraphs 9 and 14 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(b) S.R. 2005 No. 138; relevant amending Regulations are S.R. 2005 No. 357 and S.R. 2006 No. 156

(c) Article 127 is amended by paragraph 5 of Schedule 4 to the Pensions Act (Northern Ireland) 2012

- (b) in paragraph (3)(a)—
- (i) after sub-paragraph (d) insert—
- “(da) the issue of—
- (i) a determination under Article 127(2)(a) (whether condition in Article 111(2)(a) or 112(2)(a) satisfied), or
- (ii) a notice under Article 127(2A) (whether Board will make a determination or obtain an actuarial valuation);”;
- (ii) at the end of sub-paragraph (j) omit “or”;
- (iii) after sub-paragraph (j) insert—
- “(ja)the issue of—
- (i) a determination under Article 142(3)(a)(b) (whether condition in Article 142(1) satisfied), or
- (ii) a notice under Article 142(3A) (whether Board will make a determination or obtain an actuarial valuation); or”.
- (3) In regulation 15(3) (time for making an application to reconsider)—
- (a) after sub-paragraph (d) insert—
- “(da) the issue of—
- (i) a determination under Article 127(2)(a) (whether condition in Article 111(2)(a) or 112(2)(a) satisfied), or
- (ii) a notice under Article 127(2A) (whether Board will make a determination or obtain an actuarial valuation);”;
- (b) at the end of sub-paragraph (i) omit “or”;
- (c) after sub-paragraph (j) add—
- “or
- (k) the issue of—
- (i) a determination under Article 142(3)(a) (whether condition in Article 142(1) satisfied), or
- (ii) a notice under Article 142(3A) (whether Board will make a determination or obtain an actuarial valuation).”.
- (4) In the Schedule (interested person(c))—
- (a) after paragraph 7A(d) insert—
- | | |
|---|--|
| “7B. Paragraphs 7B(e) and
7C
7C. Paragraph 7D | 7B. The trustees or managers of the scheme.
7C.
(a) the trustees or managers of the scheme; and
(b) the members of that scheme or, where a member has died, any person entitled to present payment of a pension by reason of rights under the scheme in respect of a deceased member.”; |
|---|--|
- (b) omit paragraph (8);

(a) Paragraph (3) was amended by regulation 4(2) of S.R. 2006 No. 156

(b) Article 142 is amended by paragraph 11 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 and is modified by S.R. 2005 No. 137

(c) The definition of “interested person” in regulation 1(2) was amended by regulation 7(2)(c) of S.R. 2005 No. 357

(d) Paragraph 7A was inserted by regulation 7(4) of S.R. 2005 No. 357

(e) Paragraphs 7B to 7D are substituted for paragraph 8 by paragraph 13(2) of Schedule 4 to the Pensions Act (Northern Ireland) 2012

(c) after paragraph 12 insert—

“12A. Paragraphs 14A(a), 12A. The trustees or managers of the scheme.”
14B and 14C

Amendment of the Pension Protection Fund (Reference of Reviewable Matters to the PPF Ombudsman) Regulations

7. In regulation 3(2) of the Pension Protection Fund (Reference of Reviewable Matters to the PPF Ombudsman) Regulations (Northern Ireland) 2005(b) (time for making a reference)—

(a) after sub-paragraph (e) insert—

“(ea) the issue of—

- (i) a notice under Article 127(2A) (whether Board will make a determination or obtain an actuarial valuation), or
- (ii) a determination under Article 127(2)(a) (whether condition in Article 111(2)(a) or 112(2)(a) satisfied);”;

(b) after sub-paragraph (l) add—

“or

(m) the issue of—

- (i) a notice under Article 142(3A) (whether Board will make a determination or obtain an actuarial valuation), or
- (ii) a determination under Article 142(3)(a) (whether condition in Article 142(1) satisfied).”.

Amendment of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations

8. In regulation 1(3) of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005(c) (interpretation) for the definition of “PPF valuation” substitute—

““PPF valuation” means an actuarial valuation obtained under Article 127(2)(b) (Board’s obligation to obtain valuation of assets and protected liabilities);”.

Amendment of the Pension Protection Fund (Closed Schemes) Regulations

9. In regulation 3(1) of the Pension Protection Fund (Closed Schemes) Regulations (Northern Ireland) 2007(d) (obtaining of actuarial valuations of closed schemes) in the definition of “the relevant period” for “actuarial valuation of the scheme under Article 127” substitute “Board’s determination under Article 127(2)(a) or actuarial valuation of the scheme under Article 127(2)(b)”.

Sealed with the Official Seal of the Department for Social Development on 2nd July 2012

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) Paragraphs 14A to 14C are inserted by paragraph 13(3) of Schedule 4 to the Pensions Act (Northern Ireland) 2012
(b) S.R. 2005 No. 344
(c) S.R. 2005 No. 381, to which there are amendments not relevant to these Regulations
(d) S.R. 2007 No. 186

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments which are consequential on amendments being made to the Pensions (Northern Ireland) Order 2005 (“the Order”) by paragraphs 1 to 16 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)).

Regulation 2 amends the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 which modify the provisions of Part III of the Order in their application to multi-employer occupational pension schemes. The amendments modify the amended Order so that in relation to schemes with single employer sections, and those that have rules which do not contain provision for the partial winding up of the scheme on employer insolvency, the Board of the Pension Protection Fund (“the Board”) will be able to make a determination under Article 127(2)(a) of the Order (“Article 127 determination”) without obtaining a valuation. For schemes with rules that provide for partial wind up, the amendments modify the Order so that the Board will continue to be required to obtain a valuation under Article 127(2)(b) of the Order.

Regulation 3 amends the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005 to make provision for the form of evidence to be provided with an application for reconsideration made under Article 135 of the Order when a protected benefits quotation is not being provided.

Regulation 4 amends Schedule 2 to the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005 which sets out the information that trustees or managers of certain occupational pension schemes are required to provide to the members and beneficiaries of those schemes. The amendments provide for trustees or managers to send to members and beneficiaries a ‘determination summary’ when the Board make an Article 127 determination that will contain the same information that the members and beneficiaries would have received had the Board obtained a valuation.

Regulation 5 amends the Pension Protection Fund (Valuation) Regulations (Northern Ireland) 2005 to provide for the assessment of the assets and liabilities of schemes when the Board make a determination under Article 127(2)(a), 136(2B) or 142(3)(a) of the Order and for when the Board obtain a valuation under Article 136(10A) of the Order. Regulation 5(3) inserts regulation 2A which provides for how the Board will make Article 127 determinations. This provision is required before the Board is able to issue the statement required under Article 127(5C) of the Order. Regulation 5(8) inserts regulation 7A which applies the provisions of the Valuation Regulations to determinations made under Articles 136(2B) and 142(3)(a) of the Order and valuations made under Article 136(10A) of the Order. These provisions are applied by virtue of Articles 136(10) and (10C) and 142(4) and (5) of the Order.

Regulation 6 amends the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005 to set the time limits within which an application for a review or reconsideration decision must be made for the new reviewable matters: whether the Board will make an Article 127 determination or obtain a valuation, and the issue of an Article 127 determination (with the same provision in relation to decisions relating to closed schemes under Article 142). Regulation 6(4) defines who the interested persons are who may apply for a review decision on the new reviewable matters.

Regulation 7 amends the Pension Protection Fund (Reference of Reviewable Matters to the PPF Ombudsman) Regulations (Northern Ireland) 2005 to set the time limits for the new reviewable matters to be referred to the Ombudsman for the Board of the Pension Protection Fund.

Regulation 8 amends the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 to provide a new definition of “PPF valuation”.

Regulation 9 amends the Pension Protection Fund (Closed Schemes) Regulations (Northern Ireland) 2007 to amend the definition of “the relevant period”.

The Pensions (2012 Act) (Commencement No. 2) Order (Northern Ireland) 2012 (S.R. 2012 No. 265 (C. 24)) provides for the coming into operation of paragraphs 5, 6, 9 and 14 of Schedule 4 to the Pensions Act (Northern Ireland) 2012, which amend or insert Articles 127, 127A and 135 of the Order, some of the enabling provisions under which these Regulations are made, for the purpose only of authorising the making of regulations on 2nd July 2012 and for all other purposes on 23rd July 2012.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.

An assessment of the impact of these Regulations is included in the Regulatory Impact Assessment which accompanied the Pensions Act (Northern Ireland) 2012, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of that Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA or from the website: <http://www.dsdni.gov.uk/index/ssa/ssani-publications/ssani-pensions-publications.htm>.

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