

# Directions issued by the Pensions Regulator under section 69(1)<sup>1</sup> of the Pensions Act 2004

Version 1 dated 6 April 2005<sup>2</sup>

## Introduction

1. Trustees, managers and employers of eligible schemes<sup>3</sup> are under an obligation<sup>4</sup> to notify the Pensions Regulator of certain events prescribed in The Pensions Regulator (Notifiable Events) Regulations 2005 SI 900<sup>5</sup> ('the Regulations'), except where the Regulator otherwise directs.
2. These directions set out those exceptions under which the trustees, managers and employers are released from their obligation to report certain notifiable events where certain conditions are satisfied at the time that the event occurs.

## Direction 1

3. Trustees and managers are not required to notify the Regulator of the events prescribed in sub-paragraphs, (c) (inward and outward transfer payments of more than five per cent of scheme assets of £1.5 million) and (e) (granting of benefits which cost more than five percent of scheme assets of £1.5 million) of paragraph 2(1) of the Regulations, provided that both conditions A and B in paragraph 7 below are satisfied.

## Direction 2

4. Trustees and managers are not required to notify the Regulator of the event prescribed in sub-paragraph (a) of paragraph 2(1) of the Regulations (a decision by trustees or managers which results in a debt not being paid in full), provided that each of the conditions A, B and C in paragraph 7 below is satisfied.

## Direction 3

5. Employers are not required to notify the Regulator of the events and prescribed in sub-paragraphs (d) (breach of an employer banking covenant), (f) (decision by a controlling company to relinquish control) of paragraph 2(2) of the Regulations, provided that both conditions A and B in paragraph 7 below are satisfied.

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<sup>1</sup> Also issued under corresponding power under article 64 of the Pensions (Northern Ireland) Order 2005 No.255 (N.I.1)

<sup>2</sup> The directions will be reviewed and updated from time to time and trustees, managers and employers should ensure that they are replying on the current version which can be found at [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

<sup>3</sup> Eligible Scheme has the meaning given by section 126 of the Pensions Act 2004 and article 110 of the Pensions (Northern Ireland) Order 2005

<sup>4</sup> Section 69(1) of the Pensions Act 2004; Article 64 of the Pensions (Northern Ireland) Order 2005

<sup>5</sup> As amended by The Pensions Regulator (Miscellaneous Amendments) Regulations 2009 SI 617. See the Pensions Regulator (Notifiable Events) Regulations (Northern Ireland) Statutory Rule 2005 No. 172.

## Conditions

6. **Condition A** The value of the scheme's assets is equal to or greater than the value of the scheme's liabilities calculated on the relevant basis described in paragraph 8 below.

**Condition B** The trustees or managers have not incurred a duty to make a report in the previous twelve months in accordance with:

- i) Section 228(2) of the Pensions Act 2004<sup>6</sup> and regulation make thereunder (reasonable cause to believe that failure by the employer to make a payment to the scheme in accordance with the most recently agreed schedule of contributions is likely to be of material significance); or
- ii) Section 59(1) of the Pensions Act 1995<sup>7</sup> and regulations made thereunder (a failure by the employer to pay contributions due under the schedule of contributions on or before the due date).

**Condition C** The decision by the trustees or managers (to compromise a debt) is in respect of a debt where the full amount is less than 0.5 per cent of the scheme's assets calculated on the relevant basis described in paragraph 8 below.

## Relevant basis

7. The relevant basis is that on which the scheme's assets and liabilities are calculated in the most recent actuarial valuation carried out in accordance with:
- i) Section 179 of the Pensions Act 2004<sup>8</sup> (valuations to determine scheme underfunding for the purposes of risk-based pension protection levies) and regulations made thereunder ('section 179 valuation'); or
  - ii) Section 56 of the Pensions Act 1995<sup>9</sup> (minimum funding requirement) and regulations made hereunder, where no section 179 valuation has been carried out.

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<sup>6</sup> NI corresponding reference article 207(2) of the Pensions (Northern Ireland) Order 2005

<sup>7</sup> NI corresponding reference article 59(1) of the Pensions (Northern Ireland) Order 1995 No. 3213

<sup>8</sup> NI corresponding reference article 162 of the Pensions (Northern Ireland) Order 2005

<sup>9</sup> NI corresponding reference article 56 Pensions (Northern Ireland) Order 1995