

Guidance for insolvency practitioners and official receivers

An introduction from the Chief Executive

Dear Insolvency Practitioner/Official Receiver

This guide provides information on how insolvency practitioners and official receivers should interact with the Pension Protection Fund in the event that a sponsoring employer of an eligible occupational pension scheme suffers an insolvency event and where the pension scheme will be assessed to determine whether it should enter the Pension Protection Fund.

It has been prepared to help you understand your role and responsibilities in relation to an eligible pension scheme going through the Pension Protection Fund's assessment process.

The Pension Protection Fund will be looking to work closely with you with the objective of progressing the assessment process in relation to a pension scheme as efficiently as possible. That is because one of our objectives in dealing with pension scheme members, transferred into the Pension Protection Fund, is to ensure that:

'The right amount is paid to the right person at the right time'

During the assessment process, you will play a very important role and will need to understand:

when and how to involve the Pension Protection Fund in relation to the insolvency of a sponsoring employer of an occupational pension scheme – for example, notifying the Pension Protection Fund about the occurrence of an insolvency event; **and**

that the Pension Protection Fund assumes the pension scheme's role of creditor of the insolvent employer during the assessment period.

The Pension Protection Fund is committed to working closely with you and will assign an assessment team member to each pension scheme. That person will provide guidance and direction. We also have an insolvency advisor who will represent the Pension Protection Fund in the insolvency proceedings. These team members will work with you as the pension scheme moves through the assessment period stages.

This guide provides you with an outline of the stages and related processes.

This guide will be updated and enhanced as experience provides us with greater insight and knowledge. We would appreciate your feedback on the guidance and encourage your open and honest communication to help us help you.

Yours faithfully

Alan Rubenstein

Chief Executive
Pension Protection Fund

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Part 1 – Overview

- 1.1 This guidance aims to provide assistance on the process for beginning an 'assessment period' in relation to a pension scheme and the key elements of an assessment period so far as they relate to insolvency practitioners and official receivers.
- 1.2 Unless stated otherwise any references to the Act, sections, schedules and regulations relate to those under the Pensions Act 2004.
- 1.3 This guidance is for information purposes, it is not a definitive statement of law.
- 1.4 '**Introducing the Pension Protection Fund**' can be found on our website:
http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/introducing_the_ppf.pdf
- 1.5 A number of parties may be involved in the assessment process and they may include:
- an insolvency practitioner or official receiver
 - existing and independent trustees
 - The Pensions Regulator, and
 - The Pension Protection Fund.
- 1.6 The Pension Protection Fund assessment teams will work closely with insolvency practitioners and official receivers during the assessment process to provide guidance and aid the assessment of the pension scheme in accordance with the Act.
- 1.7 An assessment period is the period during which a pension scheme is assessed to determine whether the Pension Protection Fund should assume responsibility for the pension scheme. During this period the pension scheme continues to be administered by its trustees – subject to various restrictions and controls. The role of creditor of the employer (on behalf of the pension scheme) will be assumed by the Pension Protection Fund. It will be the trustees' role to continue to communicate with members and make pension payments where due, taking into account Pension Protection Fund rules.
- 1.8 A key role of the Pension Protection Fund during the assessment period is that of acting as creditor of the employer in relation to the money due to the pension scheme by the employer. The rights and powers of the trustees to represent the pension scheme as a creditor cease during this period. If an assessment period ends and the Pension Protection Fund does not assume responsibility for the pension scheme then, if the trustees are still appointed to the pension scheme, the role of creditor will pass back to the trustees.
- 1.9 The Pension Protection Fund will only assume responsibility for a pension scheme where a qualifying insolvency event has occurred in relation to an eligible pension scheme, **and**:
- a pension scheme has not been rescued, for example where the insolvent employer is in liquidation, its employees made redundant and its assets sold off piecemeal, **and**

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- the valuation of the pension scheme shows that the assets of the pension scheme are below the Pension Protection Fund level of protected liabilities.

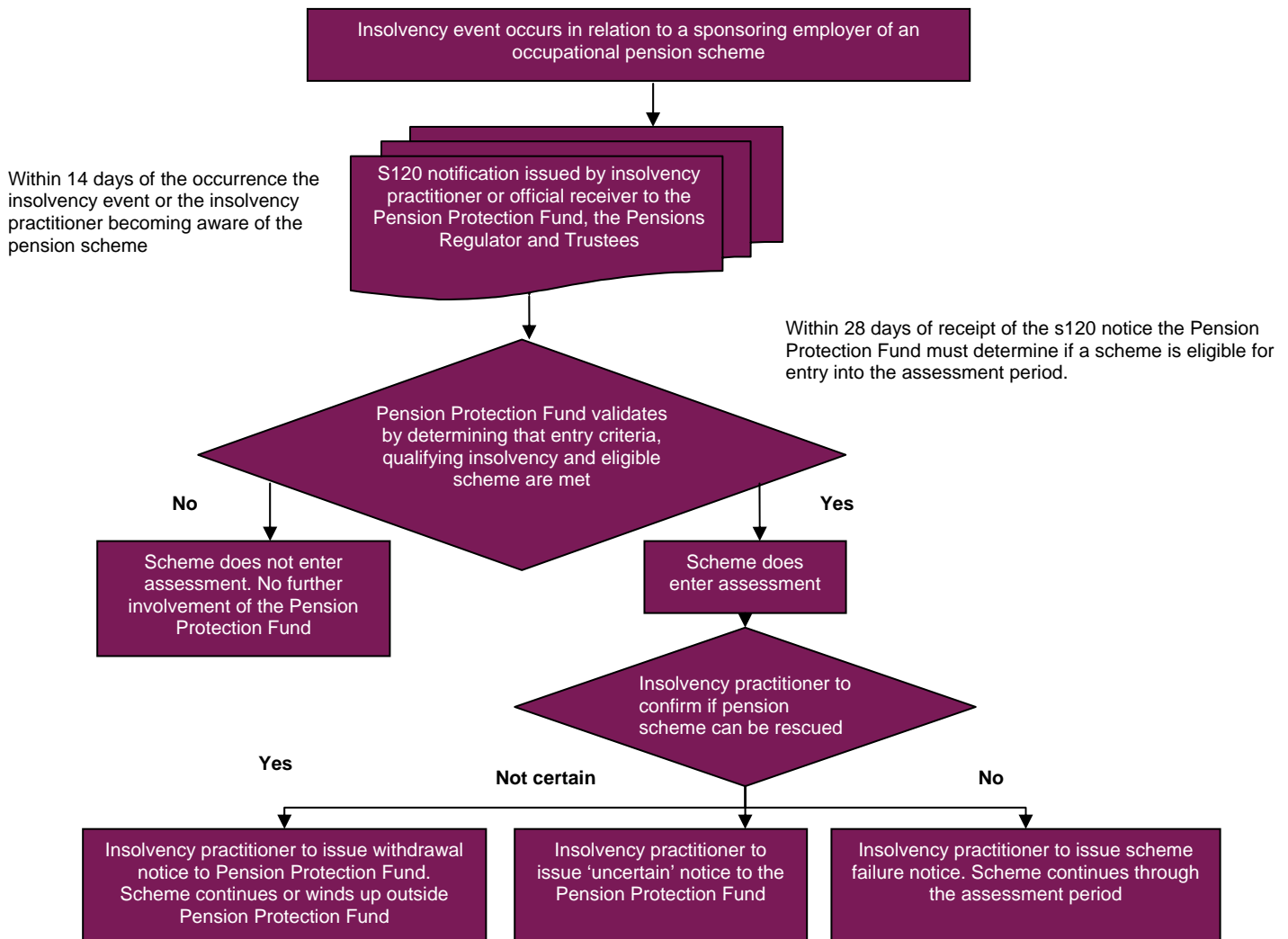
1.10 Where these conditions are not met the Pension Protection Fund will cease to be involved with the pension scheme once the relevant processes and procedures have been completed.

1.11 Where these conditions are met, the Pension Protection Fund will assume responsibility for the pension scheme and compensation will then become payable

to its members.

1.12 An assessment period is likely to last a minimum of one year, although it may vary significantly depending on the complexity of the financial situation of both the employer and the pension scheme and the possibility of a pension scheme rescue.

1.13 The diagram below sets out the key stages for an insolvency practitioner or official receiver during the initial stages of the assessment period:



Part 2 – Actions for insolvency professionals – Notification of an insolvency event

Sections 120, 121, 126, 127 & 129 Regulations 2, 3, 4 & 5 of the Pension Protection Fund (Entry Rules) Regulations 2005

Regulation 2 of the Pension Protection Fund (Multi-employer Schemes) (Modifications) Regulations 2005

- 2.1 If an employer (including a past employer which still has a liability for pension debt), with an *occupational pension scheme*, suffers an insolvency event, for example a company enters administration or an individual goes bankrupt, the Pension Protection Fund should be informed. A list of the insolvency events is set out in **Appendix 1**.
- 2.2 The Pension Protection Fund should be notified by using the **section 120** notice pro-forma (**but please see para 2.4 below**). This notice can be signed by someone other than the insolvency practitioner (if so authorised). This document is available on the Pension Protection Fund website at <http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx>. Alternatively the requisite information can be provided in some other written form. If you do not intend to use the notice pro-forma you will find a list of the information that should be included in the notice at **Appendix 2**.
- 2.3 This notice should be sent to the Pension Protection Fund, the Pensions Regulator and the trustees of the pension scheme within 14 days of the insolvency event or, if later, the date the insolvency practitioner or official receiver became aware of the existence of the occupational pension scheme. If more than one insolvency event occurs in relation to an employer a notice is required in respect of each event. If the employer sponsors more than one occupational pension scheme a notice will be required in relation to each and every one of the occupational pension schemes involved.
- 2.4 In order to assist Insolvency Practitioners to comply with their statutory obligation under section 120, we have provided an online service, which is available on the Pension Protection Fund website at <http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx>

This facility enables the Insolvency Practitioner to enter the employer's name (the company name in which it last meaningfully traded), the individual IP registration number and the date and type of insolvency event on the site. If there is an occupational pension scheme in existence, the website will cause the necessary notice to be sent to the PPF, the Pensions Regulator and the trustees. Insolvency Practitioners will receive a reply advising them that the notice has been sent or that there is no scheme. In some limited circumstances, our databases will not be able to provide the information necessary for the facility to work. However, if that is the case, the Insolvency Practitioner will instead be advised to submit a s120 notice in the way described above.
- 2.5 The Pension Protection Fund needs to be satisfied on two points before it can validate the notice and before it can confirm an assessment period has begun. They are that:

- an insolvency event is a qualifying insolvency event (a list of the events is set out in **Appendix 1** although you will also find that information in **sections 120, 121 & 127** and Regulations 4 & 5 of the Pension Protection Fund (Entry Rules) Regulations 2005), **and**
- the insolvency event must be in relation to a sponsoring employer of an eligible pension scheme (the criteria are set out in **section 126** and Regulation 2 of the Pension Protection Fund (Entry Rules) Regulations 2005). However, insolvency practitioners and official receivers are **not** required to determine whether or not the occupational pension scheme is eligible.

- 2.6 Where these two points are satisfied, the Pension Protection Fund will issue a validation notification and will confirm that an assessment period has begun. The start of the assessment period will be the date on which the insolvency event occurred. This date is known as 'the assessment date'. The assessment date is a key date in the assessment process and is the date from which any requirements or restrictions, placed upon the pension scheme by the Act, apply. This includes the application of the Pension Protection Fund rules to any payment of pensions or benefits.
- 2.7 The situation may be different for pension schemes where there is more than one participating employer and how the situation differs depends on the structure of the pension scheme. A high level diagram showing the impact of the different structures of multi-employer pension schemes is at **Appendix 3** and more information can be found in the Pension Protection Fund (Entry Rules) Regulations 2005. The insolvency practitioner or official receiver must notify the Pension Protection Fund of each insolvency event in relation to each employer participating in the pension scheme.
- 2.8 Once the insolvency practitioner or official receiver informs the Pension Protection Fund of the insolvency event the Pension Protection Fund will carry out the necessary validation to satisfy itself that the relevant criteria have been met.
- 2.9 The Pension Protection Fund can also assess certain eligible occupational pension schemes where the employer *cannot* enter formal insolvency proceedings, for example some public bodies and unincorporated charities, in circumstances where that employer is unlikely to be able to continue as a going concern.
- 2.10 In these circumstances, as no insolvency event is available to the employer it will be for either trustees of the pension scheme or the Pensions Regulator to inform the Pension Protection Fund and request that the Pension Protection Fund assumes responsibility for the pension scheme. The assessment period will begin on the date of receipt by the Pension Protection Fund of the notification or application. Further information can be found in **sections 128 & 129** and Regulations 7 & 8 of the Pension Protection Fund (Entry Rules) Regulations 2005.
- 2.11 It should be noted that this is not an alternative entry route for pension schemes. It is only for those pension schemes whose sponsoring employer cannot have a normal insolvency event.

Part 3 – Actions for insolvency professionals – Pension scheme failure, withdrawal or uncertain notice

Sections 122, 123 & 148 Regulations 6, 9 & 11 of the Pension Protection Fund (Entry Rules) Regulations 2005

- 3.1 Once it becomes clear that:
- financial support for the occupational pension scheme will continue ('a scheme rescue'), for example, because the company is rescued and the business continues with the pension scheme in place, **or**
 - financial support for the pension scheme will not continue ('no scheme rescue'), for example, because the business has been closed down, or entered liquidation and the employees have been discharged; **or**
 - the appointment of the insolvency practitioner comes to an end before a view can be formed on whether support for the pension scheme will continue or not, for example, because the court brings the insolvency proceedings to an abrupt end on rescission of a winding up order on the grounds that it ought not to have been made.

the insolvency practitioner or official receiver should inform the Pension Protection Fund, preferably by using the relevant pro-formas available on the website at

http://www.pensionprotectionfund.org.uk/index/forms/insolvency_practitioners.htm, or alternatively by sending us the requisite information in writing as soon as reasonably practical. If you do not intend to use the notice pro-formas you will find a list of the information that should be included in the notice at **Appendices 4 and 5**.

- 3.2 The situation may be different for pension schemes where there is more than one participating employer – and how the situation differs depends on the structure of the pension scheme. A high level diagram that shows the impact of the different structures of multi-employer pension schemes is at **Appendix 3** and more information on when, and if, to issue a notice under **section 122** can be found in Regulation 11 of the Pension Protection Fund (Entry Rules) Regulations 2005.
- 3.3 The notices should be issued to the Pension Protection Fund, the Pensions Regulator and trustee of the pension scheme. Once the notices are received, the Pension Protection Fund will determine whether the notice can be approved.
- 3.4 If a pension scheme rescue is confirmed, and after the relevant procedures have been completed and rights of review exhausted, the Pension Protection Fund withdraws from the pension scheme and the assessment period ends.
- 3.5 If a pension scheme rescue is not possible, and after the relevant procedures have been completed and rights of review exhausted, the pension scheme continues to the next stage of the assessment period.

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3.6 Where the insolvency practitioner or official receiver is unable to confirm whether or not a pension scheme rescue is possible and a notice is issued to that effect, and that notice becomes binding, the Pension Protection Fund must consider whether another insolvency event is likely to occur in the next six months:

- If this is unlikely, the Pension Protection Fund will issue a withdrawal notice terminating the assessment period, **and**
- if the Pension Protection Fund reaches such a decision and six months has passed without another insolvency event, the Pension Protection Fund is then required to issue a withdrawal notice, terminating the assessment period, **or**
- if an insolvency event is likely to occur, and because the pension scheme is still in an assessment period, the process for determining the pension scheme status re-starts when the Pension Protection Fund is notified of a further insolvency event.

Part 4 – Pension scheme creditor rights

Section 137

- 4.1 When an assessment period begins, the Pension Protection Fund will assume all the creditor rights of the pension scheme trustees (whether contingent or not) in relation to the insolvency of the employer. All documents, such as notice of creditors' meetings, etc should be sent to the Pension Protection Fund so it can be properly informed and exercise the creditor rights of the pension scheme in the insolvency. Contact details are shown at **Part 7**.
- 4.2 During the assessment period any sums recovered from the employer, for example a dividend payment in relation to a pension scheme should be forwarded to the scheme trustees directly.
- 4.3 In the event that the Pension Protection Fund assumes responsibility for a pension scheme, the trustees will cease to have any responsibility for the pension scheme and all rights will pass to the Pension Protection Fund.
- 4.4 In the event that it is determined that the pension scheme should withdraw from the assessment period the Pension Protection Fund relinquishes its rights in relation to the creditor responsibility for the pension scheme. In this event, the trustees will resume all rights and responsibilities to act for the pension scheme as creditor and the Pension Protection Fund will have no further part to play in relation to the scheme.

Part 5 – Restructuring or rescue of insolvent employers

- 5.1 In certain circumstances, it is possible for the Pension Protection Fund to participate in the restructuring or rescue of an insolvent business. This can mean the defined benefit pension scheme is much better off than it would have been if the business was simply left to fail. This always involves removing or compromising the pension debt from the company. A simple example of this would be a company which would have a positive cash flow and make a profit if the pension scheme was removed. In such instances, someone may be prepared to pay the scheme money to make sure that party keeps or acquires that earning capacity. Although, generally, we find the pension fund is not the only problem that the company needs to address.
- 5.2 On the face of it, engaging in such discussions is contrary to one of the purposes of the Pensions Act 2004 i.e. to stop employers 'dumping' their pensions.
- 5.3 We will therefore **only** ever participate in a restructuring or rescue if: -
- insolvency is inevitable (i.e. we are going to get the pension scheme debt whatever happens). If this hurdle is not overcome, the employer should be discussing a scheme specific funding proposal with the Pensions Regulator
 - the scheme receives consideration which is significantly better than the dividend which would be received if the company went into an ordinary insolvency (i.e. the scheme will be better off)
 - what is offered is fair given what the other creditors and shareholders are to gain as a consequence of the rescue (i.e. the insolvency return might be £0 and we are offered £500,000 in respect of a £100 million pension debt (see bullet above). However, the expectation is that post the restructuring, the irrecoverable bank debt of £100 million would become fully recoverable over time because the pension debt is no longer in the company. In such a case, we would seek to extract a suitable "price" from the bank for allowing it the opportunity of getting its money back over time)
 - the scheme is given 10% of the equity where the future shareholders are not currently involved with the company and 33% if the parties are currently involved. (This is a form of anti embarrassment protection to ensure that we do not find ourselves with a large pension liability and not much to go with it and whilst the purchaser goes off with a very valuable business because there was some golden nugget in it which no one on our side of the deal spotted or was told about at the time). We have a standard form of shareholder agreement and articles of association to protect the pension scheme's interests as we take non voting equity

- a Contribution Notice or a Financial Support Direction from the Pensions Regulator would not generate more money for the scheme than the deal we have negotiated (we would not want to settle for a lesser sum that could be obtained for the scheme)
- the Pensions Regulator is prepared to clear the deal
- the fees charged by the bank(s) are reasonable, where the deal involves a refinancing, and
- the other party pays both our and the trustees' legal fees for documenting and executing the deal.

5.4 A draft clearance application must have been submitted to, and considered by the Pensions Regulator before we will engage in discussions. If appropriate, we and the Pensions Regulator team would work together to consider the proposition being made. If we consider a proposal is worth pursuing, that will ultimately be put to our respective Boards before we can confirm whether we are prepared to proceed or not.

Part 6 – Employees and pensioners

- 6.1 During an assessment period any pension scheme enquiries from employees or existing pensioners should be directed to the trustees of the pension scheme rather than the Pension Protection Fund. This is because the trustees remain responsible for administering the scheme (subject to statutory restrictions) until the end of an assessment period or where it has been determined whether or not the Pension Protection Fund will assume responsibility for it.
- 6.2 In dealing with enquiries from employees or pensioners on the Pension Protection Fund more generally, and for a basic understanding of the compensation that may be payable, you may find it helpful to refer them to our website and the leaflet '**Introducing the Pension Protection Fund**'.
- 6.3 This leaflet can be accessed on our website:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/introducing_the_ppf.pdf

Hard copies are available for distribution, if required.

Part 7 - Further information

- 7.1 Further useful and more detailed information, for example the Guidance for Trustees, can be found on the Pension Protection Fund website:

www.pensionprotectionfund.org.uk

- 7.2 The contact address for the Pension Protection Fund is:

The Pension Protection Fund
Knollys House
17 Addiscombe Road
Croydon
Surrey
CR0 6SR

Tel: 0845 600 2541

Appendix 1

Insolvency events

'Insolvency events' in relation to a company

Section 121(3) & Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005

An insolvency event occurs in relation to a company where:

- a** the nominee under Part 1 of the Insolvency Act 1986 either:
 - i** (who is not the liquidator or administrator) submits a report to the court stating his opinion that meetings of the company and its creditors should be summoned to consider the proposal, **or**
 - ii** (who is an administrator or liquidator) summons a meeting of the company and its creditors to consider the proposal
- b** the directors of the company file (or in Scotland, lodge) with the court documents and statements which begin a moratorium where the directors propose a voluntary arrangement
- c** an administrative receiver is appointed in relation to the company
- d** the company enters administration
- e** a resolution is passed for creditors' voluntary liquidation or an administrator issues a notice which converts the administration to creditors voluntary liquidation
- f** a creditors' meeting is held which converts a members' voluntary liquidation into a creditors' voluntary liquidation
- g** a winding up order is made or an administration is converted to winding up by court order.

Note: paragraph 84 of schedule B1 to the Insolvency Act 1986 is not an 'insolvency event'.

'Insolvency events' in relation to a partnership

Section 121(4) & Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005

An insolvency event occurs in relation to a partnership where:

- a** an order for the winding up of the partnership is made or an administration is converted to a winding up by court order
- b** sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors
- c** the nominee under Part 1 of the Insolvency Act 1986 either:
 - i** (*who is not the liquidator or administrator*) submits a report to the court stating his opinion that meetings of the partnership and its creditors should be summoned to consider the proposals, **or**
 - ii** (*who is an administrator, liquidator or trustee*) summons a meeting of the company and its creditors to consider the proposal
- d** the members of the partnership file with the court documents and statements which begin a moratorium where the members propose a voluntary arrangement
- e** the partnership enters administration.

Note: In the above, **e** will be amended by secondary legislation when the Insolvent Partnerships Order 1994 is amended to apply to partnerships the administration regime introduced by the Enterprise Act 2002.

'Insolvency events' in relation to an individual

Section 121(2) & Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005

An insolvency event occurs in relation to an individual where:

- a** he is adjudged bankrupt or sequestration of their estate has been awarded
- b** a nominee submits a report to the court pursuant to section 256(1) or 256A(3) of the Insolvency Act 1986 stating his opinion that a meeting of the creditors should be called to consider the proposals

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- c** a deed of arrangement made by or in respect of the affairs of the individual is registered in accordance with the Deeds of Arrangement Act 1914
- d** he executes a trust deed for his creditors or enters into a composition or contract
- e** he has died and:
 - i** an insolvency administration order is made, **or**
 - ii** a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide the individual's estate amongst their creditors.

Additional insolvency events

Section 121(5) & Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005

An insolvency event occurs:

- a** in relation to a company, where an administration order is made by the court in respect of the company by virtue of any enactment which applies Part 2 of the Insolvency Act 1986 Act (administration orders) (with or without modification)
- b** in relation to a relevant body, where:
 - i** any of the events referred to in section 121(3) of the Act (see company insolvency events above) occurs in relation to that body by virtue of the application (with or without modification) of any provision of the Insolvency Act 1986 Act by or under any other enactment, **or**
 - ii** **an administration order is made by the court in respect of the relevant body by virtue of any enactment which applies Part 2 of the Insolvency Act 1986 Act (with or without modification)**
- c** in relation to a building society, where there is dissolution by consent of the members under section 87 of the Building Societies Act 1986
- d** in relation to a friendly society, where there is dissolution by consent of the members under section 20 of the Friendly Societies Act 1992, **and**
- e** in relation to an industrial and provident society, where there is dissolution by consent of the members under section 58 of the Industrial and Provident Societies Act 1965.

'administration order' means an order whereby the management of the company or relevant body, as the case may be, is placed in the hands of a person appointed by the court;

'relevant body' means:

- a credit union
- a limited liability partnership
- a building society

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a person who has permission to act under Part IV of the FSMA

the society of Lloyd's and Lloyd's members

a friendly society, **or**

a society which is registered as an industrial and provident society.

(A reference to Part 2 of the Insolvency Act 1986 Act, insofar as it relates to a company or society listed in section 249(1) of the Enterprise Act 2002 (special administration arrangements), has effect as if it referred to Part 2 of the 1986 Act as it had effect immediately before 15 September 2003.)

Appendix 2

Information to be supplied by the insolvency practitioner on the occurrence of an 'insolvency event'

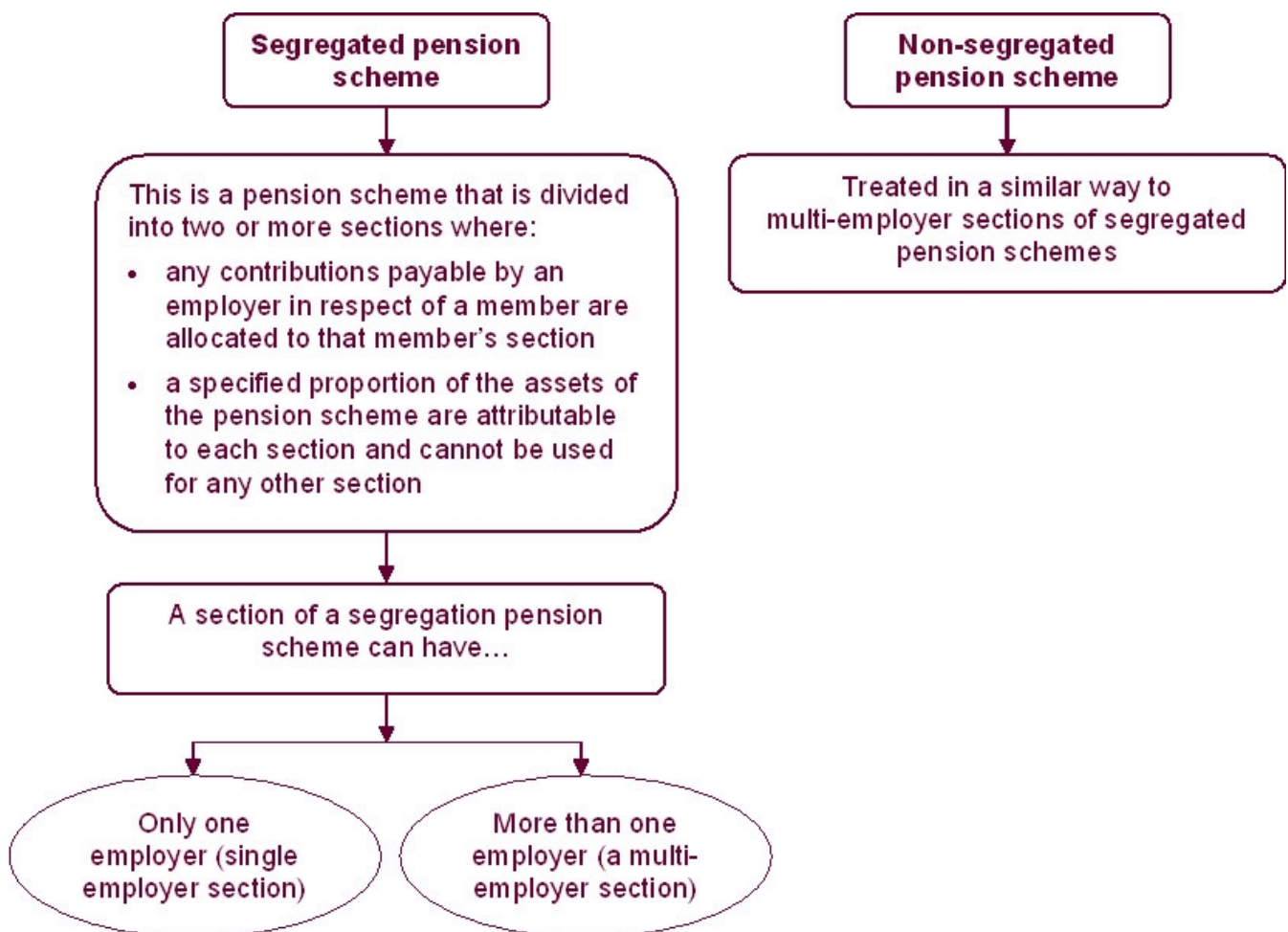
Regulation 4(2) of the Pension Protection Fund (Entry Rules) Regulations 2005

A notice issued by an insolvency practitioner under section 120(2) shall be in writing and shall contain the following information:

- a** the name or type of the 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** the name of the employer in relation to the scheme in respect of which the notice is issued
- e** the nature of the insolvency event which has occurred and the date of the occurrence of that event
- f** the name of the insolvency practitioner acting in relation to the employer in relation to the scheme
- g** the date on which the insolvency practitioner was appointed to act or consented to act in relation to the employer in relation to the scheme or, in any case where the insolvency practitioner is the official receiver, the date on which the official receiver began to act in relation to that employer
- h** the address for communications at which the insolvency practitioner may be contacted by the Board in connection with the issue of the notice, **and**
- i** whether the notice issued contains any commercially sensitive information.

Appendix 3

Multi-employer pension schemes



Single employer sections

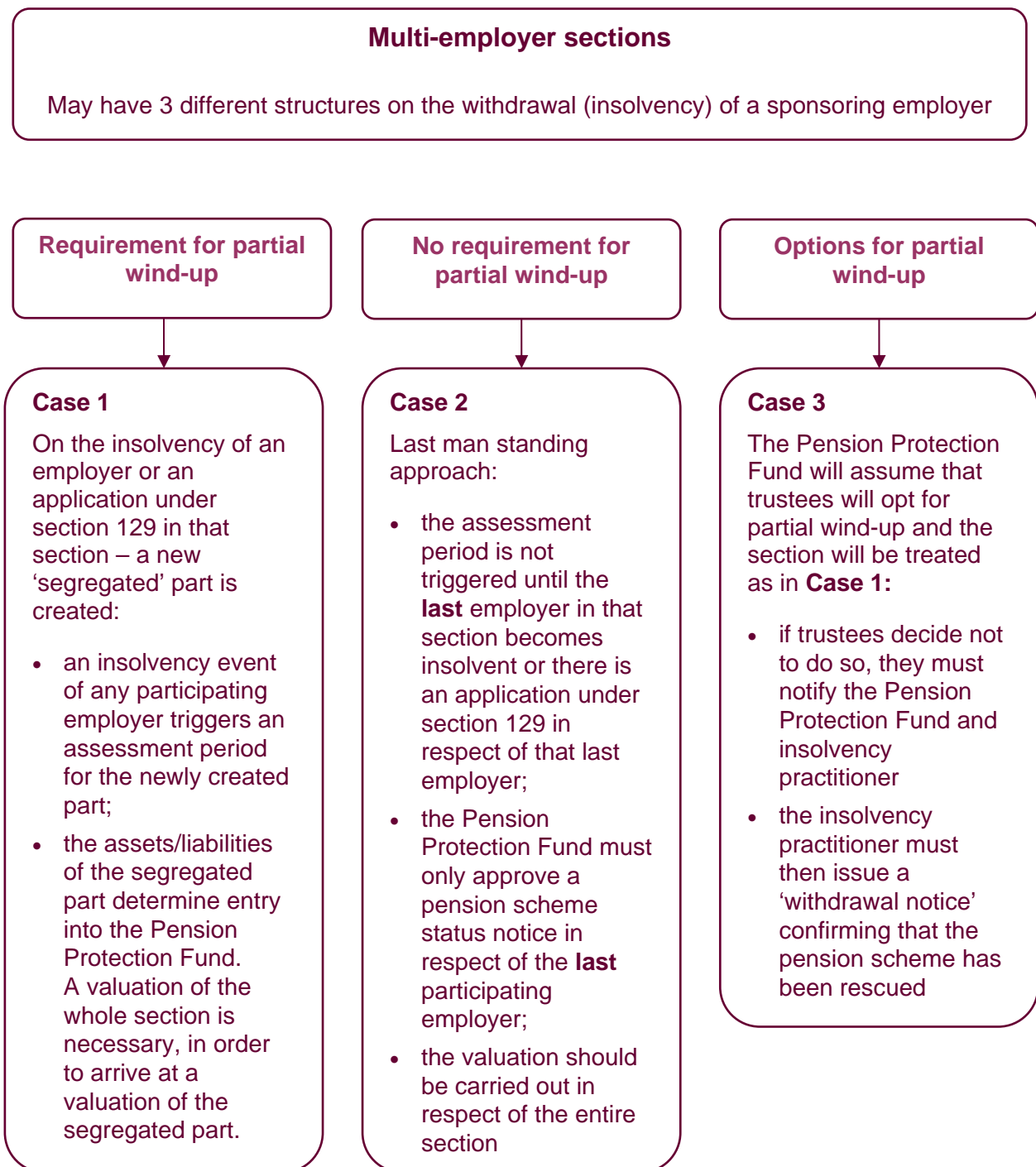
Each section is treated similarly to a separate single employer pension scheme in the Pension Protection Fund process.

An insolvency event relating to the sponsoring employer of that section triggers the assessment period.

The assets/liabilities of that section are only relevant for the Pension Protection Fund purposes.

The Pension Protection Fund will only assume responsibility for that section.

Segregated pension schemes



Appendix 4

Information to be included in the notification of the status of the scheme

Regulation 9(3) of the Pension Protection Fund (Entry Rules) Regulations 2005

We recommend you use the forms available on our website at

<http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx> to notify the PPF.

A notice issued by an insolvency practitioner under section 122(2)(a) or (b) or by a former insolvency practitioner under section 122(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** the name of the employer in relation to the scheme in respect of which the notice is issued
- e** the name of the insolvency practitioner or former insolvency practitioner and the address at which that insolvency practitioner may be contacted by the Board in connection with the issue of the notice
- f** a statement by the insolvency practitioner or former insolvency practitioner that, as the case may be, a scheme rescue has occurred or a scheme rescue is not possible or that he has been unable to confirm that a scheme rescue has occurred or that a scheme rescue is not possible
- g** if a scheme rescue has occurred, the date or the approximate date of the scheme rescue and, if there is a new employer in relation to the scheme, the name and address of that employer in relation to the scheme
- h** if a scheme rescue is not possible, a statement from the insolvency practitioner or former insolvency practitioner as to why, in their opinion, this is not possible
- i** if section 122(4) applies and the former insolvency practitioner has not been able to confirm in relation to the scheme that a scheme rescue is not possible, a statement from that insolvency practitioner as to why, in their opinion, this is the case

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- j** a statement that the notice issued will not become binding until it has been approved by the Board, **and**
- k** whether, in the opinion of the insolvency practitioner or former insolvency practitioner, the notice issued contains any commercially sensitive information.

Appendix 5

Events triggering obligation to file a 'scheme rescue uncertain' notice under section 122(3)

We recommend you use the forms available on our website at <http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx> to notify the PPF.

Companies

- a** Where the procedure for a voluntary arrangement has commenced but for whatever reason no voluntary arrangement has effect.
- b** Where a company has entered a moratorium with a view to the proposal of a voluntary arrangement and the moratorium has terminated without a voluntary arrangement taking effect.
- c** Where the company enters administration, the appointment of an administrator in respect of the company ceases to have effect, except where:
 - i** the company moves from administration into winding up pursuant to paragraph 83 (moving from administration to creditor's voluntary liquidation) of Schedule B1 to the 1986 Act or pursuant to an order of the court under Rule 2.132 of the Insolvency Rules, or
 - ii** a winding up order is made by the court immediately upon the appointment of the administrator ceasing to have effect.
- d** Where an administrative receiver vacates office under section 45.
Where the winding up proceedings are stayed or the winding up order is
- e** rescinded or discharged, except where the court has made an administration order.

Partnerships

References are to provisions of the Rules and of the Act as applied by an order under section 420

- a** Where the procedure for a voluntary arrangement has commenced under section 2 of the 1986 Act but for whatever reason no voluntary arrangement has effect or a moratorium with a view to a voluntary arrangement has terminated without the voluntary arrangement taking effect, whichever is

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applicable.

- b** Where an administration order has been made in relation to the partnership under Part 2, the order is discharged, except where:
 - i** a winding up order is made by the court immediately upon the discharge of the administration order; **or**
 - ii** the discharge is pursuant to an order of the court for the administration to be converted into winding up under rule 2.61(1) of the Insolvency Rules 1986 without the amendments made by the Insolvency (Amendment) Rules 2003.
- (These events will be amended when the Insolvency Partnerships Order 1994 is amended to apply to partnerships the administration regime introduced by the Enterprise Act 2002.)
- c** Where an order for the winding up of the partnership has been made by the court, the winding up proceedings are stayed or the winding up order is rescinded or discharged.

Individuals

- a** Where the procedure for a voluntary arrangement has commenced but for whatever reason no voluntary arrangement has effect.
- b** Where an individual has been adjudged bankrupt, the bankruptcy order is annulled or rescinded.
- c** Where an insolvency administration order is annulled or rescinded.

Other situations triggering a 'scheme rescue uncertain' notice

Deeds of arrangement

Where a deed of arrangement made by or in respect of the individual has been registered under the Deeds of Arrangement Act 1914, but the deed is void in accordance with the provisions of section 3(1) of that Act.

For full details, please see Regulation 6 of the Pension Protection Fund (Entry Rules) Regulations 2005.

