Changes to legislation: *The Pensions (Northern Ireland) Order 1995, Section 73B is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

Occupational Pensions

Winding up

Articles 73 and 73A: supplementary

73B.—(1) Any action taken in contravention of Article 73A(3) **[**[F1]or (6A)**]** is void.

(2) If any provision made by or by virtue of the winding up provisions is not complied with in relation to a scheme to which Article 73 applies, Article 10 applies to any trustee or manager of the scheme who has failed to take all reasonable steps to secure compliance.

(3) For the purposes of paragraph (2), when determining whether Article 73A(3) **[**[F2]or (6A)**]** has been complied with paragraph (1) of this Article is to be disregarded.

(4) Regulations may—

(a) prescribe how, for the purposes of the winding up provisions—

(i) the assets and liabilities of a scheme to which Article 73 applies, and

(ii) their value or amount,

are to be determined, calculated and verified;

(b) modify any of the winding up provisions as it applies—

(i) to prescribed schemes or prescribed descriptions of schemes;

(ii) in relation to a scheme where only part of the scheme is being wound up;

(iii) in relation to a case where any liability of the scheme in respect of a member has been discharged by virtue of regulations under Article 119(4) of the Pensions (Northern Ireland) Order 2005 (power to make regulations permitting discharge of scheme's liabilities during an assessment period).

(5) Without prejudice to the generality of paragraph (4), regulations under sub-paragraph (b)(i) of that paragraph may, in particular, modify any of the winding up provisions as it applies in relation to a scheme in relation to which there is more than one employer.

(6) The winding up provisions do not apply—

(a) in relation to any liability for an amount by way of pensions or other benefits which a person became entitled to payment of, under the scheme rules, before commencement of the winding up period,

(b) in prescribed circumstances, in relation to any liability in respect of rights of a prescribed description to which a member of the scheme became entitled under the scheme rules by reason of his pensionable service under the scheme terminating before the commencement of the winding up period,

(c) in relation to any liability in respect of rights of prescribed descriptions to which a member of the scheme had become entitled under the scheme rules before the commencement of the winding up period, or

(d) in relation to any liability the discharge of which is validated under Article 120 of the Pensions (Northern Ireland) Order 2005 (power to validate actions taken during an assessment period to discharge liabilities of a scheme).

(7) But nothing in paragraph (6) prevents the winding up provisions applying in relation to a liability under **[**[F3]Chapter 1 of Part 4ZA**]** of the Pension Schemes Act (transfer values) which—

(a) arose before the commencement of the winding up of the scheme, and

(b) was not discharged before the commencement of the winding up period.

(8) Regulations may provide that, in prescribed circumstances, where—

(a) an occupational pension scheme to which Article 73 applies is being wound up,

(b) a member of the scheme died before the winding up began, and

(c) during the winding up period a person becomes entitled under the scheme rules to a benefit of a prescribed description in respect of the member,

his entitlement to payment of all or part of the benefit is, for the purposes of paragraph (6), to be treated as having arisen immediately before the commencement of the winding up period.

(9) If, immediately before the winding up period in relation to an occupational pension scheme to which Article 73 applies, a person is entitled to an amount but has postponed payment of it, he is not, for the purposes of paragraph (6), to be regarded as having become entitled to payment of the amount before that period.

(10) For the purposes of this Article—

(a) "winding up provisions" means this Article and Articles 73, 73A and 74, and

(b) paragraph (10) of Article 73 applies as it applies for the purposes of that Article.

F1 Words in art. 73B(1) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 64(2)**, 89(3)(b) (with s. 87)

F2 Words in art. 73B(3) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 64(2)**, 89(3)(b) (with s. 87)

F3 Words in art. 73B(7) substituted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 77** (with s. 87)

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Changes and effects yet to be applied to :

- Instrument amended by 1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72
- power to am. (prosp.) by 1998 c. 47 s.87
- art. 73A73B power to modify conferred by 2016 c. 1 (N.I.) s. 26(3)(a)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 18(15)(16) repealed by 2012 c. 3 (N.I.) Sch. 2 para. 4(b)
- Sch. 2 Pt. 3 para. 18(8) repealed by 2008 c. 1 (N.I.) Sch. 6 Pt. 1 (Amendment could not be applied - affected provision not available on legislation.gov.uk)
- Sch. 2 Pt. 3 para. 18(18) repealed by 2008 c. 1 (N.I.) Sch. 6 Pt. 1 (Amendment could not be applied - affected provision not available on legislation.gov.uk)
- art. 37(1A)(a) word inserted by 2016 c. 1 (N.I.) Sch. 2 para. 7(a)
- art. 37(1A)(b) inserted by 2016 c. 1 (N.I.) Sch. 2 para. 7(b)
- art. 51(5A)-(5C) inserted by 2016 c. 1 (N.I.) s. 43(1)
- art. 51(7A) inserted by 2016 c. 1 (N.I.) s. 41(1)(b)
- art. 51(9)(10) inserted by 2016 c. 1 (N.I.) s. 42(3) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by 2016 c. 1 (N.I.) s. 45(3)
- art. 67A(9)(b)(viii)-(x) inserted by 2016 c. 1 (N.I.) s. 45(6)(b)
- art. 73(2)(2A) substituted for art. 73(2) by 2016 c. 1 (N.I.) Sch. 2 para. 11
- art. 75(1)-(1B) substituted for art. 75(1) by 2016 c. 1 (N.I.) Sch. 2 para. 12
- art. 167(3)(aa) inserted by 2016 c. 1 (N.I.) s. 43(2)