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STATUTORY INSTRUMENTS

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**1995 No. 3213**

**The Pensions (Northern Ireland) Order 1995**

**PART II**

**OCCUPATIONAL PENSIONS**

*Winding up*

**Excess assets on winding up**

**76.**—(1) This Article applies to a trust scheme in any circumstances if—

- [<sup>F1</sup>(a) it is a registered pension scheme under section 153 of the Finance Act 2004,]
- (b) the scheme is being wound up, and
- (c) in those circumstances, power is conferred on the employer or the trustees to distribute assets to the employer on a winding up.

(2) The power referred to in paragraph (1)(c) cannot be exercised unless the requirements of paragraphs (3) and (in prescribed circumstances) (4), and any prescribed requirements, are satisfied.

(3) The requirements of this paragraph are that—

- (a) the liabilities of the scheme have been fully discharged,
- (b) where there is any power under the scheme, after the discharge of those liabilities, to distribute assets to any person other than the employer, the power has been exercised or a decision has been made not to exercise it,
- (c) <sup>F2</sup> . . . and
- (d) notice has been given in accordance with prescribed requirements to the members of the scheme of the proposal to exercise the power.

(4) The requirements of this paragraph are that the Authority are of the opinion that—

- (a) any requirements prescribed by virtue of paragraph (2) are satisfied, and
- (b) the requirements of paragraph (3) are satisfied.

(5) <sup>F3</sup> . . . . .

(6) If, where this Article applies to any trust scheme, the trustees purport to exercise the power referred to in paragraph (1)(c) without complying with the requirements of this Article, [<sup>F4</sup> Article 10 applies] to any of them who have failed to take all such steps as are reasonable to secure compliance.

(7) If, where this Article applies to any trust scheme, any person other than the trustees purports to exercise the power referred to in paragraph (1)(c) without complying with the requirements of this Article, Article 10 applies to him.

(8) Regulations may provide that, in prescribed circumstances, this Article does not apply to schemes falling within a prescribed class or description, or applies to them with prescribed modifications.

**Changes to legislation:** *The Pensions (Northern Ireland) Order 1995, Section 76 is up to date with all changes known to be in force on or before 10 April 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*

- F1** Art. 76(1)(a) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 11(5)**
- F2** Art. 76(3)(c) (but not the word "and" immediately following it) repealed (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), 291, Sch. 10 para. 56(a), Sch. 11; S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3
- F3** Art. 76(5) repealed (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), 291, Sch. 10 para. 56(b), Sch. 11; S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3
- F4** Words in art. 76(6) substituted (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), **Sch. 10 para. 56(c)**; S.R. 2005/543, art. 2(6), **Sch. Pt. 6**

**Modifications etc. (not altering text)**

- C1** Art. 76 applied (with modifications) (6.4.2006) by S.R. 2006/161, **regs. 12(2), 18**
- C2** Art. 76 excluded (6.4.2006) by S.R. 2006/161, **reg. 12(1)**
- C3** Art. 76 excluded (24.7.2014) by The Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 (S.R. 2014/204), regs. 1(1), **36(1)(b)**

**Changes to legislation:**

The Pensions (Northern Ireland) Order 1995, Section 76 is up to date with all changes known to be in force on or before 10 April 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.

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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. 76 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\(2\)](#)