
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Assignment, forfeiture, bankruptcy, etc.,

Inalienability of occupational pension

89.—(1) Subject to paragraph (5), where a person is entitled^[F1] to a pension under an occupational pension scheme or has a right to a future pension under such a scheme]

- (a) the entitlement or right cannot be assigned, commuted or surrendered,
- (b) the entitlement or right cannot be charged or a lien exercised in respect of it, and
- (c) no set-off can be exercised in respect of it,

and an agreement to effect any of those things is unenforceable.

(2) Where by virtue of this Article a person's entitlement^[F1] to a pension under an occupational pension scheme, or right to a future pension under such a scheme,] cannot, apart from paragraph (5), be assigned, no order can be made by any court the effect of which would be that he would be restrained from receiving that pension.

Para. (3) rep. by 1999 NI 11

(4) Paragraph (2) does not prevent the making of—

- (a) an attachment of earnings order under the Judgments Enforcement (Northern Ireland) Order 1981^{F2}, or
- (b) an income payments order under the Insolvency (Northern Ireland) Order 1989^{F3}.

(5) In the case of a person (“the person in question”) who is entitled^[F1] to a pension under an occupational pension scheme, or has a right to a future pension under such a scheme], paragraph (1) does not apply to any of the following, or any agreement to effect any of the following—

- (a) an assignment in favour of the person in question's widow, widower^[F4], surviving civil partner] or dependant,
- (b) a surrender, at the option of the person in question, for the purpose of—
 - (i) providing benefits for that person's widow, widower^[F4], surviving civil partner] or dependant, or
 - (ii) acquiring for the person in question entitlement to further benefits under the scheme,
- (c) a commutation—
 - (i) of the person in question's benefit on or after retirement or in exceptional circumstances of serious ill health,

Changes to legislation: *The Pensions (Northern Ireland) Order 1995, Section 89 is up to date with all changes known to be in force on or before 05 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*

- (ii) in prescribed circumstances, of any benefit for that person's widow, widower^{F4}, surviving civil partner] or dependant, or
- (iii) in other prescribed circumstances,
- (d) subject to paragraph (6), a charge or lien on, or set-off against, the person in question's entitlement, or^{F1} right,] (except to the extent that it includes transfer credits other than prescribed transfer credits) for the purpose of enabling the employer to obtain the discharge by him of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by him,
- (e) subject to paragraph (6), except in prescribed circumstances a charge or lien on, or set-off against, the person in question's entitlement, or^{F1} right], for the purpose of discharging some monetary obligation due from the person in question to the scheme and—
 - (i) arising out of a criminal, negligent or fraudulent act or omission by him, or
 - (ii) in the case of a trust scheme of which the person in question is a trustee, arising out of a breach of trust by him.
- ^{F5}(f) subject to paragraph (6), a charge or lien on, or set-off against, the person in question's entitlement, or right, for the purpose of discharging some monetary obligation due from the person in question to the scheme arising out of a payment made in error in respect of the pension.]
- (6) Where a charge, lien or set-off is exercisable by virtue of paragraph (5)(d)^{F5}, (e) or (f)]
 - (a) its amount must not exceed the amount of the monetary obligation in question, or (if less) the value (determined in the prescribed manner) of the person in question's entitlement or accrued right, and
 - (b) the person in question must be given a certificate showing the amount of the charge, lien or set-off and its effect on his benefits under the scheme,

and where there is a dispute as to its amount, the charge, lien or set-off must not be exercised unless the obligation in question has become enforceable under an order of a competent court or in consequence of an award of an arbitrator.

(7) This Article is subject to section 155 of the Pension Schemes Act (inalienability of guaranteed minimum pension ^{F6}...).

F1 1999 NI 11

F2 1981 NI 6

F3 1989 NI 19

F4 SR 2005/434

F5 2005 NI 1

F6 Words in art. 89(7) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **5(3)**

Modifications etc. (not altering text)

- C1** Art. 89 applied (1.4.2015) by [The Teachers Pension Scheme Regulations \(Northern Ireland\) 2014 \(S.R. 2014/310\)](#), regs. 1, **180(2)**
- C2** Art. 89 excluded (1.4.2015) by [The Teachers Pension Scheme Regulations \(Northern Ireland\) 2014 \(S.R. 2014/310\)](#), regs. 1, **195(2)**
- C3** Art. 89 restricted (10.3.2022 for specified purposes, 1.4.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), ss. **105(1)(2)**, **131(1)(2)(f)**

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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](#)

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\(2\)](#)