
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 493

The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996

Part VI

Restoration of State Scheme Rights

Insolvent schemes

49.—(1) Where paragraph 5(3B) of Schedule 1 to the Act⁽¹⁾ applies in relation to a member of a contracted-out scheme which is being wound up and the conditions set out in paragraph (3) are satisfied, the member shall be treated as if sections 42 to 44⁽²⁾ or, as the case may be, 44A⁽¹⁾ of the Act⁽³⁾—

- (a) except as provided in sub-paragraph (b), did not apply,
- (b) in a case where the cash equivalent of the member's rights is less than the amount required for restoring his state scheme rights, applied only in so far as they extinguish such part of the member's state scheme rights as, in the opinion of the Department, corresponds to that shortfall.

(2) For the purposes of paragraph 5(3B)(b) of Schedule 1 to the Act, the debt due from the trustees of the scheme to the Department shall be only such part of the amount required for restoring the member's state scheme rights as does not exceed the amount which, in the opinion of the Department, is the amount available from the resources of the scheme to meet the liability for the cash equivalent of the member's rights.

(3) The conditions referred to in paragraph (1) are that—

- (a) in the case of a money purchase contracted-out scheme, there has been a determination by the Compensation Board that the conditions set out in Article 79(1) of the Order (cases where compensation provisions apply) are satisfied, and
- (b) no later than 3 months after the date on which the trustees notify the member in accordance with regulation 50, or such further period as the Department may allow in a particular case, the Department has received from—
 - (i) the member, or
 - (ii) where the Department is satisfied that the member cannot be traced, the trustees, a written application for the member's state scheme rights to be restored in accordance with this regulation.

(1) Paragraph 5(3B) of Schedule 1 was inserted by Article 138(2) of the Pensions (Northern Ireland) Order 1995

(2) Section 42 was amended by paragraph 54 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and is amended by paragraph 19 of Schedule 2 to, and paragraph 36 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995; section 43 was amended by paragraph 55 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994; section 44 was amended by paragraph 56 of Schedule 1 to that Order and Article 137(2) of the Pensions (Northern Ireland) Order 1995

(3) Section 44A was inserted by Article 137(1) of the Pensions (Northern Ireland) Order 1995

- (4) For the purposes of this regulation and paragraph 5(3A) to (3D) of Schedule 1 to the Act—
- (a) the cash equivalent of a member’s rights under a scheme shall be determined—
 - (i) in the case of a scheme to which Article 56 of the Order applies (minimum funding requirement) as if the requirement of Article 56(1) were satisfied, or
 - (ii) in the case of a money purchase scheme, as if there had been no reduction in the value of its assets attributable to an act or omission constituting a prescribed offence for the purposes of Article 79(1)(c) of the Order;
 - (b) the extent (if any) to which the resources of the scheme are insufficient to meet that cash equivalent shall be determined—
 - (i) on the assumption that those resources include any payment to the trustees under the compensation provisions, and
 - (ii) where Article 73 of the Order (preferential liabilities on winding up) applies, in accordance with the requirements of that Article;
 - (c) the amount required for restoring the member’s state scheme rights shall be an amount determined in accordance with regulations made under paragraph 5(3C)(c) of Schedule 1 to the Act.
- (5) In this regulation “Compensation Board” and “compensation provisions” have the same meaning as in Article 121(1) of the Order.