
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 153

PENSIONS

**The Occupational Pension Schemes (Assignment, Forfeiture,
Bankruptcy etc.) Regulations (Northern Ireland) 1997**

Made - - - - *13th March 1997*

Coming into operation *6th April 1997*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 89(5)(c) to (e), 90(3)(d) and (6), 92(1) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(1) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997 and shall come into operation on 6th April 1997.

(2) In these Regulations—

“approved scheme” means an occupational pension scheme which is approved or was formerly approved under section 590 or 591 of the Taxes Act 1988 (conditions for approval of retirement benefit schemes and discretionary approval), or in respect of which an application for such approval has been duly made which has not been determined;

“Armed Forces Pension Scheme” means the schemes under which pensions are payable by virtue of the Naval and Marine Pay and Pensions Act 1865(2), the Air Force (Constitution) Act 1917(3) or the Army Pensions Warrant 1977(4);

“associated” has the same meaning as in Article 4 of the Insolvency (Northern Ireland) Order 1989(5);

“public service pension scheme” has the same meaning as in section 1 of the Pension Schemes Act but does not include an Armed Forces Pension Scheme.

(3) In these Regulations any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 1995 bearing that number.

(1) [S.I. 1995/3213 \(N.I. 22\)](#)

(2) [1865 c. 73](#)

(3) [1917 c. 51](#)

(4) Dated 17 June 1977 — Army Code No. 13045

(5) [S.I. 1989/2405 \(N.I. 19\)](#)

Commutation of a pension under an occupational pension scheme

2.—(1) For the purposes of Article 89(5)(c)(ii) and (iii) (inalienability of occupational pension does not apply to commutation in prescribed circumstances) the prescribed circumstances are where—

- (a) either—
 - (i) the pension has become payable; or
 - (ii) the occupational pension scheme is being wound up; and
- (b) the aggregate amount of the benefit payable to the member or, as the case may be, his widow or her widower or dependant under all the schemes relating to employment with the same employer as the employment in respect of which the benefit is payable does not exceed £260 per annum.

(2) Where a member's pension is commuted under paragraph (1)(b), any prospective widow's or widower's benefit payable under the scheme may also be commuted (provided that the aggregate amount of such benefit prospectively payable under all the schemes relating to employment with the same employer as the employment in respect of which the benefit is payable does not exceed £260 per annum) and the value of any such widow's or widower's benefit shall not be taken into account for the purposes of the limit of £260 per annum mentioned in paragraph (1)(b).

(3) For the purposes of paragraph (1)(a)(ii) an occupational pension scheme shall be treated as being wound up when any of the circumstances referred to in regulation 2 of the Occupational Pension Schemes (Winding Up) Regulations (Northern Ireland) 1996(6) (commencement of winding up) apply.

Charge or lien on, or set-off against, transfer credits

3. For the purposes of Article 89(5)(d) (charge or lien on, or set-off against, transfer credits by employer) the prescribed transfer credits are those transfer credits attributable to employment with the same employer or an associated employer and the benefits of which could have been charged or a lien or set-off exercised in respect of such benefits under the occupational pension scheme from which the transfer was made.

Charge or lien on, or set-off against, an occupational pension

4. For the purposes of Article 89(5)(e) (charge or lien on, or set-off against, entitlement or accrued right to a pension for the purpose of discharging some monetary obligation to the scheme except in prescribed circumstances) the prescribed circumstance is where a monetary obligation arises out of a breach of trust by the person in question and the court has relieved him wholly or partly from personal liability under section 61 of the Trustee Act (Northern Ireland) 1958(7).

Payability of pension where forfeiture occurs

5. For the purposes of Article 90(3)(d) (class of persons to whom a forfeited pension may be paid) the prescribed class is any person (other than a person mentioned in Article 90(3)(a) to (c)) to whom, under the rules of the scheme, the pension was or could have been paid.

Forfeiture of occupational pension

6.—(1) For the purposes of Article 90(6) (a pension under an occupational pension scheme cannot be forfeited except in prescribed circumstances) the prescribed circumstances are where—

(6) S.R. 1996 No. 621

(7) 1958 c. 23 (N.I.)

- (a) a pension is payable to a member's widow or widower, dependant or any other person who is nominated under the scheme rules by the member and that person is convicted of the offence of murder or manslaughter of that member or any other offence of which unlawful killing of that member is an element;
 - (b) a person in respect of whom a pension is or would have been payable has caused a monetary loss to the scheme as a result of—
 - (i) a criminal, negligent or fraudulent act or omission by him; or
 - (ii) in the case of a trust scheme of which the person is a trustee, a breach of trust by him;
 - (c) in the case of a public service pension scheme—
 - (i) the member is convicted of an offence committed in connection with his service as a public servant; and
 - (ii) a Minister of the Crown or government department certifies that the commission of that offence has been gravely injurious to the interests of the State or is liable to lead to serious loss of confidence in the public service;
 - (d) in the case of the Armed Forces Pension Scheme—
 - (i) the member is convicted of an offence committed in connection with his service as a member of the Armed Forces; and
 - (ii) the Secretary of State considers that offence to have been gravely injurious to the defence, security or other interests of the State.
- (2) For the purposes of paragraph (1)(a) unlawful killing shall include the case of a person who has unlawfully aided, abetted, counselled or procured the death of a person.
- (3) A person's entitlement or accrued right to a pension may be forfeited under paragraph (1)(b) to the extent only that it does not exceed the amount of the monetary loss to the scheme, or (if less) the value of the person's entitlement or accrued right under the scheme.

Modification of Article 89 in respect of public service pension schemes and the Armed Forces Pension Scheme

7. Article 89(5)(d) shall have effect in its application to public service pension schemes and the Armed Forces Pension Scheme with the omission of the words "and arising out of a criminal, negligent or fraudulent act or omission by him".

Exemptions from the inalienability and forfeiture provisions

8.—(1) If a scheme is one the trustees of which have made or wish to make a loan in respect of which the conditions of regulation 6(8) of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996(8) (investments to which the restrictions do not apply) are met, Article 89(1)(b) shall not apply to the extent that it would prevent the directors' interest under the policy referred to being used as security for that loan.

(2) Article 89(1)(a) (entitlement or right to occupational pension cannot be assigned, commuted or surrendered) shall not apply to that part of an occupational pension scheme under which there is an entitlement or an accrued right to a lump sum retirement benefit and the Commissioners of Inland Revenue have granted a concession, in accordance with a statement issued on 11th October 1996(9), to a member in respect of that lump sum retirement benefit.

(8) [S.R. 1996 No. 584](#)

(9) A copy of the statement can be obtained from Inland Revenue Information Centre, South West Wing, Bush House, Strand, London WC2B 4RD

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) Subject to paragraph (4) of this regulation, Article 89(2) (court orders) shall not apply in relation to schemes which are not approved schemes.

(4) Paragraph (3) shall not apply to public service pension schemes and the Armed Forces Pension Scheme.

(5) Article 90(4)(a) (forfeiture) shall not apply in relation to public service pension schemes.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

13th March 1997.

John O'Neill
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations concern the inalienability and forfeiture provisions in respect of occupational pension schemes under the Pensions (Northern Ireland) Order 1995 (“the Order”).

Regulation 1 deals with the citation, commencement and interpretation of the Regulations.

Regulation 2 prescribes the circumstances where an occupational pension may be commuted.

Regulation 3 prescribes the type of transfer credits which may be included in a charge or lien on, or set-off in respect of, a monetary obligation due to an employer.

Regulation 4 prescribes, for the purposes of Article 89(5)(e) of the Order, the circumstances where a pension may not be charged or a lien or set-off exercised in respect of it, for the purpose of discharging some monetary obligation to the scheme.

Regulation 5 prescribes the class of persons to whom a forfeited pension may be paid.

Regulation 6 prescribes the circumstances in which a pension under an occupational pension scheme can be forfeited.

Regulation 7 modifies Article 89(5)(d) of the Order (charge or lien on, or set-off against, entitlement in respect of a monetary obligation due to the employer) in respect of public service pension schemes and the Armed Forces Pension Scheme.

Regulation 8 provides for certain schemes to be exempt from the inalienability and forfeiture provisions.

The Pensions (1995 Order) (Commencement No. 2) Order (Northern Ireland) 1996 ([S.R. 1996 No. 91 \(C. 4\)](#)) provides for the coming into operation of Articles 89, 90 and 92 of the Order, for the purpose only of authorising the making of regulations, and Article 166 of the Order, in so far as it was not already in operation, on 6th April 1996.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(e) of that Article.