
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

New powers in respect of occupational and personal pension schemes

Pension liberation: restraining orders

16.—(1) The Regulator may make a restraining order in relation to an account with a deposit-taker if—

- (a) it is satisfied that the account contains money which has been liberated from a pension scheme,
- (b) it is satisfied that the account is held by or on behalf of—
 - (i) the liberator, or
 - (ii) a person who has to, or in practice is likely to, ensure that the account is operated in accordance with the liberator's directions, and
- (c) the order is made pending consideration being given to the making of one or more repatriation orders in relation to the account under Article 17.

(2) A restraining order is an order directing that no credit or debit of any amount may be made to the account concerned ("the restrained account") during the period for which the order has effect.

(3) A restraining order must—

- (a) specify the name of the deposit-taker in respect of which it is made,
- (b) identify the account in respect of which it is made, and
- (c) contain such other information as may be prescribed.

(4) A restraining order—

- (a) takes effect when the deposit-taker concerned is notified by the Regulator of the making of the order, and
- (b) (subject to paragraph (7)) ceases to have effect through expiry of time at the end of the six months beginning with the day when it is made.

(5) The Regulator may, at a time when a restraining order has effect, make an order extending (or further extending) the restraining order.

(6) An order under paragraph (5) (an "extension order") takes effect—

- (a) when the deposit-taker concerned is notified by the Regulator of the making of the order, but
- (b) only if notification under sub-paragraph (a) occurs at a time when the restraining order concerned has effect.

- (7) Where an extension order takes effect—
- (a) the restraining order concerned does not cease to have effect through expiry of time until the end of the six months beginning with the time when it would have ceased to have effect through expiry of time had it not been extended, but
 - (b) for so long as the extension order has effect, no further extension order can take effect before that time in relation to the restraining order.
- (8) A restraining order does not prevent the crediting to the restrained account of an amount representing interest payable by the deposit-taker on any amount which is, or has been, in the account.
- (9) Where a restraining order has effect, the deposit-taker must return to the payer any money credited to the restrained account in breach of the order.
- (10) Where a restraining order has effect, the Regulator may, on an application made by or with the consent of the person by whom the restrained account is held, by order permit a payment specified in the order to be made out of the account if the Regulator is satisfied—
- (a) that the payment will be made for the purpose of enabling—
 - (i) any individual to meet his reasonable living expenses, or
 - (ii) any person to carry on a trade, business, profession or occupation,
 - (b) that the beneficial interest in the money out of which the payment will be made belongs—
 - (i) to the individual, or person, concerned, or
 - (ii) to a person who consents to the making of the payment, and
 - (c) that the money out of which the payment will be made is not money liberated from a pension scheme.
- (11) Article 10 of the 1995 Order (civil penalties) applies to a deposit-taker who, without reasonable excuse, fails to comply with any obligation imposed by a restraining order or by this Article.