
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART VI

**OCCUPATIONAL AND PERSONAL PENSION
SCHEMES: MISCELLANEOUS PROVISIONS**

Deficiency in assets of certain occupational pension schemes

Debt due from the employer in the case of multi-employer schemes

249. After Article 75 of the 1995 Order (deficiencies in the assets) insert—

“Deficiencies in the assets: multi-employer schemes

75A.—(1) Regulations may modify Article 75 (deficiencies in the assets) as it applies in relation to multi-employer schemes.

(2) The regulations may in particular provide for the circumstances in which a debt is to be treated as due under Article 75 from an employer in relation to a multi-employer scheme (a “multi-employer debt”).

(3) Those circumstances may include circumstances other than those in which the scheme is being wound up or a relevant event occurs (within the meaning of Article 75).

(4) For the purposes of regulations under this Article, regulations under Article 75(5) may prescribe alternative manners for determining, calculating and verifying—

- (a) the liabilities and assets of the scheme to be taken into account, and
- (b) their amount or value.

(5) The regulations under this Article may in particular—

- (a) provide for the application of each of the prescribed alternative manners under Article 75(5) to depend upon whether prescribed requirements are met,
- (b) provide that, where in a particular case a prescribed alternative manner under Article 75(5) is applied, the Authority may in prescribed circumstances issue a direction—
 - (i) that any resulting multi-employer debt is to be unenforceable for such a period as the Authority may specify, and
 - (ii) that the amount of the debt is to be re-calculated applying a different prescribed manner under Article 75(5) if prescribed requirements are met within that period.

(6) The prescribed requirements mentioned in paragraph (5) may include a requirement that a prescribed arrangement, the details of which are approved in a notice issued by the Authority, is in place.

- (7) The regulations may provide that the Authority may not approve the details of such an arrangement unless prescribed conditions are met.
- (8) Those prescribed conditions may include a requirement that—
- (a) the arrangement identifies one or more persons to whom the Authority may issue a contribution notice under the regulations, and
 - (b) the Authority are satisfied of prescribed matters in respect of each of those persons.
- (9) For the purposes of paragraph (8) a “contribution notice” is a notice stating that the person to whom it is issued is under a liability to pay the sum specified in the notice—
- (a) to the trustees of the multi-employer scheme in question, or
 - (b) where the Board of the Pension Protection Fund has assumed responsibility for the scheme in accordance with Chapter 3 of Part III of the Pensions (Northern Ireland) Order 2005 (pension protection), to the Board.
- (10) The regulations may provide for the Authority to have power to issue a contribution notice to a person identified in an arrangement as mentioned in paragraph (8) if—
- (a) the arrangement ceases to be in place or the Authority consider that the arrangement is no longer appropriate, and
 - (b) the Authority are of the opinion that it is reasonable to impose liability on the person to pay the sum specified in the notice.
- (11) Where a contribution notice is issued to a person under the regulations as mentioned in paragraph (8), the sum specified in the notice is to be treated as a debt due from that person to the person to whom it is to be paid as specified in the notice.
- (12) Where the regulations provide for the issuing of a contribution notice by the Authority as mentioned in paragraph (8)—
- (a) the regulations must—
 - (i) provide for how the sum specified by the Authority in a contribution notice is to be determined,
 - (ii) provide for the circumstances (if any) in which a person to whom a contribution notice is issued is jointly and severally liable for the debt,
 - (iii) provide for the matters which the notice must contain, and
 - (iv) provide for who may exercise the powers to recover the debt due by virtue of the contribution notice, and
 - (b) the regulations may apply with or without modifications some or all of the provisions of Articles 43 to 47 of the Pensions (Northern Ireland) Order 2005 (contribution notices where non-compliance with financial support direction) in relation to contribution notices issued under the regulations.
- (13) In this Article “multi-employer scheme” means a trust scheme which applies to earners in employments under different employers.
- (14) This Article is without prejudice to the powers conferred by—
- Article 75(5) (power to prescribe the manner of determining, calculating and verifying assets and liabilities etc.),
 - Article 75(10) (power to modify Article 75 as it applies in prescribed circumstances),
 - Article 115(1)(a) (power to modify any provisions of this Part in their application to multi-employer trust schemes), and

Article 122(3) (power to extend for the purposes of this Part the meaning of “employer”).”.