
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART I
INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Pensions (Northern Ireland) Order 2005.
- (2) Subject to paragraphs (3) to (5), the provisions of this Order shall come into operation on such day or days as the Department may by order appoint.
- (3) The following provisions shall come into operation on the expiration of seven days from the day on which this Order is made—
- (a) this Article and Article 2 (other than paragraphs (5) and (6));
 - (b) in Part V, Article 213 (supply of housing benefit information);
 - (c) in Part VI, Article 258 (exemption from statutory revaluation requirement);
 - (d) in Part VIII—
 - (i) Article 272 (persons entitled to more than one Category B retirement pension),
 - (ii) Article 273(3) (commencement of amendments of state pension deferment provisions made by the 1995 Order), and
 - (iii) Article 274 (disclosure of state pension information), except paragraphs (4) and (5) (b);
 - (e) in Part IX (miscellaneous and supplementary)—
 - (i) Articles 277 and 278 (electronic working), and
 - (ii) Articles 285, 287 (other than paragraph (4)), 288 and 289;
 - (f) the repeal by this Order of Article 47(2) of the 1999 Order.
- (4) Article 273 (and Schedule 9 (deferral of retirement pensions and shared additional pensions), other than the provisions coming into operation in accordance with paragraph (3)—
- (a) shall come into operation on the expiration of seven days from the day on which this Order is made so far as is necessary for enabling the making of any regulations for which they provide, and
 - (b) otherwise, shall come into operation on 6th April 2005.
- (5) The repeals by this Order of Article 131(3) of, and paragraph 18(13) and (14) of Schedule 2 to, the 1995 Order shall come into operation on 6th April 2005.
- (6) Without prejudice to Article 287(3), the power to make an order under this Article includes power—
- (a) to make transitional adaptations or modifications—
 - (i) of the provisions brought into operation by the order, or

- (ii) in connection with those provisions, of any provisions of Parts II to VII of this Order, the Pension Schemes Act, the 1995 Order, Parts II, III or V of the 1999 Order or Chapter 2 of Part II of the 2000 Act, or
 - (b) to save the effect of any of the repealed provisions of any of those statutory provisions, or those provisions as adapted or modified by the order,
- as it appears to the Department expedient, including different adaptations or modifications for different periods.

Interpretation

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order, unless the context otherwise requires—

“the 1995 Order” means the [Pensions \(Northern Ireland\) Order 1995 \(NI 22\)](#);

“the 1999 Order” means the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(NI 11\)](#);

“the 2000 Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4);

“active member” has the meaning given by Article 121(1) of the 1995 Order;

“the Board” means the Board of the Pension Protection Fund;

“the Companies Order” means the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)](#);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“the Department” means the Department for Social Development;

“the Determinations Panel” means the committee established by the Regulator under section 9 of the Pensions Act 2004 (c. 35);

“direct payment arrangements”, in relation to a personal pension scheme, has the same meaning as in section 107A of the Pension Schemes Act;

“earnings” has the meaning given by section 176(1) of the Pension Schemes Act;

“employee” has the meaning given by section 176(1) of the Pension Schemes Act;

“employer”—

(a) in relation to an occupational pension scheme, means the employer of persons in the description of employment to which the scheme in question relates (but see paragraph (5)), and

(b) in relation to a personal pension scheme, where direct payment arrangements exist in respect of one or more members of the scheme who are employees, means an employer with whom those arrangements exist;

“enactment” includes any statutory provision;

“government department” means a Northern Ireland department or a department of the government of the United Kingdom;

“the Insolvency Order” means the [Insolvency \(Northern Ireland\) Order 1989 \(NI 19\)](#);

“managers”, in relation to an occupational or personal pension scheme (other than a scheme established under a trust), means the persons responsible for the management of the scheme;

“member”, in relation to an occupational pension scheme, means any active, deferred, pensioner or pension credit member within the meaning of Article 121(1) of the 1995 Order (but see paragraph (6));

“modifications” includes additions, omissions and amendments;

“money purchase benefit” has the meaning given by section 176(1) of the Pension Schemes Act;

“money purchase scheme” has the meaning given by section 176(1) of the Pension Schemes Act;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act;

“pension credit” has the meaning given by Article 121(1) of the 1995 Order;

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993 (c. 49);

“personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act;

“the PPF Ombudsman” means the Ombudsman for the Board of the Pension Protection Fund;

“prescribed” means prescribed by regulations;

“professional adviser”, in relation to an occupational pension scheme, has the meaning given by Article 47 of the 1995 Order;

“regulations” means regulations made by the Department;

“the Regulator” means the Pensions Regulator;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“the Tribunal” means the Pensions Regulator Tribunal.

(3) In this Order, unless the context otherwise requires, references to the scheme rules, in relation to an occupational pension scheme, are references to—

- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part IV of the Pension Schemes Act (preservation of benefit under occupational pension schemes).

(4) For the purposes of paragraph (3)—

- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security (Northern Ireland) Order 1989 (NI 13) (equal treatment for men and women);
 - (ii) Chapters 2 to 5 of Part IV of the Pension Schemes Act (certain protection for early leavers) or regulations made under any of those Chapters;
 - (iii) Part IVA of that Act (requirements relating to pension credit benefit) or regulations made under that Part;
 - (iv) section 106(1) of that Act (requirement as to resources for annual increase of guaranteed minimum pensions);
 - (v) Part II of the 1995 Order (occupational pensions) or orders or regulations made or having effect as if made under that Part;
 - (vi) Article 28 of the 1999 Order (pension debits: reduction of benefit);

- (vii) any provision mentioned in Article 279(2);
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) section 125(1) of the Pension Schemes Act;
 - (iii) Article 114(1) of the 1995 Order;
 - (iv) Article 28(4) of the 1999 Order;
 - (v) Article 279(1).
- (5) Regulations may, in relation to occupational pension schemes, extend for the purposes of this Part and Parts II, III and V to VII the meaning of “employer” to include—
 - (a) persons who have been the employer in relation to the scheme;
 - (b) such other persons as may be prescribed.
- (6) Regulations may for any purpose of any provision of this Order—
 - (a) prescribe the persons who are to be regarded as members or prospective members of an occupational or personal pension scheme, and
 - (b) make provision as to the times at which and circumstances in which a person is to be treated as becoming, or as ceasing to be, such a member or prospective member.
- (7) In the application, for the purposes of this Order, of—
 - (a) section 24(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents by post) omit the word “registering”;
 - (b) section 39(2) of that Act (time beginning on a particular day), omit the word “not”.