



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART VI

FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

107 Voluntary contributions

- (1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that an occupational pension scheme or a personal pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—
 - (a) must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
 - (b) must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
 - (c) must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him; and
 - (d) must secure that the value of the additional benefits is reasonable, having regard—
 - (i) to the amount of the voluntary contributions; and
 - (ii) to the value of the other benefits under the scheme.
- (2) The requirements specified in this section are in this Act referred to as “the voluntary contributions requirements”.
- (3) This section does not apply in relation to any pension payable under—
 - (a) Part II of the Judicial Pensions Act (Northern Ireland) 1951;
 - (b) Part XIII of the County Courts Act (Northern Ireland) 1959;
 - (c) the Resident Magistrates' Pensions Act (Northern Ireland) 1960;
 - (d) section 2 of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;

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- (e) the Judicial Pensions Act 1981; or
 - (f) the Judicial Pensions and Retirement Act 1993;
- and accordingly none of the provisions of this Act shall, in so far as it has effect in relation to the voluntary contributions requirements, apply to any such pension.

108 Restrictions on investment of scheme’s resources in employer-related assets

- (1) An occupational pension scheme shall comply with such restrictions as may be prescribed with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.
- (2) In this section—
 - “employer-related investments” means—
 - (a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer;
 - (b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person;
 - (c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person;
 - (d) loans to the employer or any such person;
 - “the employer” means the employer of persons in the description or category of employment to which the scheme in question relates;
 - “securities” means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986.
- (3) If and to the extent that any sums due and payable by a person to the trustees or managers of a scheme remain unpaid—
 - (a) those sums shall be regarded for the purposes of this section as loans made to that person by the trustees or managers, and
 - (b) resources of the scheme shall be regarded as invested accordingly.
- (4) Articles 4 and 7 of the Insolvency (Northern Ireland) Order 1989 (connected and associated persons) shall apply for the purposes of this section as they apply for the purposes of that Order.

109 Disclosure of information about schemes to members, etc

- (1) The Department may by regulations specify requirements to be complied with in the case of an occupational pension scheme or a personal pension scheme with respect to keeping the persons mentioned in subsection (2) informed—
 - (a) of its constitution;
 - (b) of its administration and finances;
 - (c) of the rights and obligations that arise or may arise under it; and
 - (d) of any other matters that appear to the Department to be relevant to occupational pension schemes or personal pension schemes in general or to schemes of a description to which the scheme in question belongs.
- (2) The persons referred to in subsection (1) are—
 - (a) members and, in the case of an occupational pension scheme, prospective members of the scheme;

- (b) spouses of members and, in the case of an occupational pension scheme, of prospective members;
 - (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;
 - (d) in the case of an occupational pension scheme, independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.
- (3) Without prejudice to the generality of section 177(2), the regulations may distinguish between—
 - (a) cases in which information is to be given as of course; and
 - (b) cases in which information need only be given on request or in other prescribed circumstances.
- (4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d).

110 Additional documents for members, etc. and Registrar

- (1) Without prejudice to the generality of the power conferred on it by section 109(1), the Department may by regulations require the trustees of an occupational pension scheme or, if there are no trustees, the managers—
 - (a) to obtain at such times as may be prescribed documents to which this subsection applies; and
 - (b) to make copies of them available to the persons specified in section 109(2).
- (2) In relation to any scheme, the documents to which subsection (1) applies are—
 - (a) its audited accounts;
 - (b) an auditor's statement about contributions under it;
 - (c) an actuarial valuation of its assets in relation to its liabilities; and
 - (d) an actuary's statement concerning such aspects of any such valuation as may be prescribed.
- (3) The Department may by regulations—
 - (a) prescribe the persons who may act as auditors or actuaries for the purposes of this section; or
 - (b) provide that the persons who may so act shall be—
 - (i) persons with prescribed professional qualifications or experience; or
 - (ii) persons approved by the Department.
- (4) The Department may by regulations make provision as to the form and content of any such document as is mentioned in subsection (2).

111 Powers as respects failure to comply with information requirements

- (1) If the trustees or managers of an occupational pension scheme or a personal pension scheme, having made default in complying with regulations under section 109 or 110(1)(b), fail to make good the default within 14 days after the service on them of a notice requiring them to do so, an order may be made under this subsection.
- (2) The Department may by regulations specify forms for notices under subsection (1).

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- (3) An order under subsection (1) is an order directing the trustees or managers to make good the default within such time as may be specified in the order.
- (4) The power to make such an order shall be exercisable by a county court on the application of any person mentioned in subsection (5).
- (5) The persons referred to in subsection (4) are—
 - (a) the Department;
 - (b) any person authorised by the Department to make an application under this section; and
 - (c) any aggrieved person.
- (6) An order under this section may provide that all costs of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.

112 Regulations as to auditors

The Department may by regulations make provision as to—

- (a) the appointment, resignation and removal of auditors of occupational pension schemes;
- (b) the duty of employers and auditors of employers to disclose information to the trustees or managers of occupational pension schemes and the auditors of such schemes;
- (c) the duty of trustees or managers of an occupational pension scheme to disclose information and to make documents available to the auditors of the scheme.

113 Regulations as to form and content of advertisements

Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

114 Equal access requirements

- (1) Subject to section 149(3), the equal access requirements in relation to an occupational pension scheme are that membership of the scheme is open to both men and women on terms which are the same as to age and length of service needed for becoming a member.
- (2) A rule does not contravene the equal access requirements only because it confers on the scheme's trustees or managers, or others, a discretion whose exercise may result in a person being more or less favourably treated than he otherwise would be, so long as it does not provide for the discretion to be exercised in any discriminatory manner as between men and women.
- (3) The equal access requirements have effect in relation to any occupational pension scheme whose resources are derived in whole or in part from—
 - (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation; or
 - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or

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- any other person, being a power or duty which extends to the disbursement or allocation of public money; or
 - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.
- (4) Regulations may make provision—
- (a) for the Equal Pay Act (Northern Ireland) 1970 to have effect, in relation to terms of employment relating to membership of an occupational pension scheme, with such modifications as may be prescribed;
 - (b) for imposing requirements on employers as to the payment of contributions and otherwise in case of their failing or having failed to comply with any such terms;
 - (c) for the consequential modification of a scheme's rules where there has been an alteration under the Equal Pay Act (Northern Ireland) 1970 of any such terms.
- (5) A reference in this section to terms of employment includes (where the context permits) a reference to—
- (a) any collective agreement or pay structure;
 - (b) a wages regulation order within section 4 of the Equal Pay Act (Northern Ireland) 1970; and
 - (c) an agricultural wages order within section 5 of that Act.