



2000 CHAPTER 4

PART II

PENSIONS

CHAPTER II

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Winding-up of schemes

Modification of scheme to secure winding-up

44. After Article 71 of the Pensions Order there shall be inserted—

“Modification by Authority to secure winding-up

71A.—(1) The Authority may at any time while—

- (a) an occupational pension scheme is being wound up, and
- (b) the employer in relation to the scheme is subject to an insolvency procedure,

make an order modifying that scheme with a view to ensuring that it is properly wound up.

(2) The Authority shall not make such an order except on an application made to them, at a time such as is mentioned in paragraph (1), by the trustees or managers of the scheme.

(3) Except in so far as regulations otherwise provide, an application for the purposes of this Article must be made in writing.

(4) Regulations may make provision—

Changes to legislation: *Child Support, Pensions and Social Security Act (Northern Ireland) 2000, Section 44 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) for the form and manner in which an application for the purposes of this Article is to be made to the Authority,
 - (b) for the matters which are to be contained in such an application,
 - (c) for the documents which must be attached to an application for the purposes of this Article or which must otherwise be delivered to the Authority with or in connection with any such application,
 - (d) for persons to be required, before such time as may be prescribed, to give such notifications of the making of an application for the purposes of this Article as may be prescribed,
 - (e) for the matters which are to be contained in a notification of such an application,
 - (f) for persons to have the opportunity, for a prescribed period, to make representations to the Authority about the matters to which such an application relates,
 - (g) for the manner in which the Authority are to deal with any such application.
- (5) The power of the Authority to make an order under this Article—
- (a) shall be limited to what they consider to be the minimum modification necessary to enable the scheme to be properly wound up, and
 - (b) shall not include power to make any modification that would have a significant adverse effect on—
 - (i) the accrued rights of any member of the scheme, or
 - (ii) any person's entitlement under the scheme to receive any benefit.
- (6) A modification of an occupational pension scheme by an order of the Authority under this Article shall be as effective in law as if—
- (a) it had been made under powers conferred by or under the scheme,
 - (b) the modification made by the order were capable of being made in exercise of such powers notwithstanding any enactment, rule of law or rule of the scheme that would have prevented their exercise for the making of that modification, and
 - (c) the exercise of such powers for the making of that modification would not have been subject to any enactment, rule of law or rule of the scheme requiring the implementation of any procedure or the obtaining of any consent in connection with the making of a modification.
- (7) Regulations may provide that, in prescribed circumstances, this Article—

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- (a) does not apply in the case of occupational pension schemes of a prescribed class or description, or
 - (b) in the case of occupational pension schemes of a prescribed class or description applies with prescribed modifications.
- (8) The times when an employer in relation to an occupational pension scheme shall be taken for the purposes of this Article to be subject to an insolvency procedure are—
- (a) in the case of a trust scheme, while Article 22 applies in relation to the scheme, and
 - (b) in the case of a scheme that is not a trust scheme, while Article 22 would apply in relation to the scheme if it were a trust scheme,
- and for the purposes of this paragraph no account shall be taken of modifications or exclusions contained in any regulations under Article 115.
- (9) The Authority shall not be entitled to make an order under this Article in relation to a public service pension scheme.”.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 1(2)(c) added by [2007 c. 2 \(N.I.\) Sch. 5 para. 6](#)
- Sch. 7 para. 6(5A)-(5C) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 11 para. 10\(3\)](#)