
STATUTORY INSTRUMENTS

1972 No. 1073

Superannuation (Northern Ireland) Order 1972

Persons employed in the civil service, etc.

Superannuation schemes as respects civil servants, etc.

3.—^{F1}(1) The Ministry—

- (a) may make, maintain, and administer schemes (whether contributory or not) whereby provision is made with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the scheme, are to be paid, or may be paid, by the Ministry to or in respect of such of the persons to whom this Article applies as it may determine;
- (b) may, in relation to such persons as any such scheme may provide, pay or receive transfer values;
- (c) may make, in such circumstances as any such scheme may provide, payments by way of a return of contributions, with or without interest; and
- (d) may make such payments as it thinks fit towards the provision, otherwise than by virtue of such a scheme, of superannuation benefits for or in respect of such of the persons to whom this Article applies as it may determine.

^{F2}(1A) Where a money purchase scheme under this Article includes provision enabling a member to elect for the benefits which are to be provided to or in respect of him to be purchased from any authorised provider whom he may specify, then—

- (a) notwithstanding paragraph (1)(a), the scheme may make provision for the making of such an election to have the effect, in such cases as the scheme may specify, of discharging any liability of the Department to pay those benefits to or in respect of that member, but
- (b) the scheme shall not be so framed as to have the effect that benefits under it may only be provided in a manner which discharges that liability of the Department.]

^{F3}(1B) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).]

(2) Before making any scheme under this Article the Ministry shall consult with persons appearing to the Ministry to represent persons likely to be affected by the proposed scheme or with the last-mentioned persons.

(3) This Article applies to persons serving—

- (a) in employment in the civil service; or
- (b) in employment of any of the kinds listed in Schedule 1; or
- (c) in an office so listed.

^{F4}(3A) This Article also applies to persons serving in employment or in an office, not being service in employment or in an office of a kind mentioned in paragraph (3), where the employment or office is specified in a list produced for the purposes of this paragraph (see Article 3A).]

(4) Subject to paragraph (5), the Ministry may by order—

- (a) add any employment to those listed in Schedule 1, being employment by a body or in an institution specified in the order; or
- (b) add any office so specified to the offices so listed; or
- (c) remove any employment or office from the employments or offices so listed.

(5) No employment or office shall be added to those listed in Schedule 1 unless the remuneration of persons serving in that employment or office is paid out of moneys appropriated by a transferred provision or out of the Consolidated Fund.

(6) Notwithstanding paragraph (5), the Ministry may by order provide that this Article shall apply to persons serving in employment which is remunerated out of a fund specified in the order, being a fund established by or under a transferred provision.

(7) An order under paragraph (4) or (6)—

- (a) may be made so as to have effect as from a date before the making of the order;
- (b) may include transitional and other supplemental provisions; and
- (c) shall be subject to negative resolution.

[^{F2}(8) In this article—

[^{F5}“authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in paragraph (8B), (8C) or (8D); or
- (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be to provide that benefit;]

“money purchase scheme” means a scheme under which all the benefits that may be provided are money purchase benefits, as defined in [^{F6} section 176(1) of the Pension Schemes (Northern Ireland) Act 1993].]

[^{F5}(8A) In paragraph (8), the definition of "authorised provider" must be read with—

- (a) section 22 to the Financial Services and Markets Act 2000;
- (b) any relevant order made under that section; and
- (c) Schedule 2 to that Act.

(8B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
- (b) that firm is authorised by its home state authorisation to carry on that service.

(8C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and

- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.
- (8D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—
- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
 - (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and
 - (c) that the firm also carries on the activity in question in its home State.
- (8E) Expressions used in paragraphs (8B) to (8D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meanings in those paragraphs as they have in that Schedule.]

- F1** functions transf. by 1982 NI 6
- F2** 1990 NI 13
- F3** Art. 3(1B) inserted (28.4.2014) by Public Service Pensions Act (Northern Ireland) 2014 (c. 2), s. 37(2), **Sch. 8 para. 11**; S.R. 2014/123, art. 2(1)(r)
- F4** Art. 3(3A) inserted (11.3.2014) by Public Service Pensions Act (Northern Ireland) 2014 (c. 2), art. 37(1)(a), **Sch. 9 para. 2**
- F5** SI 2002/1555
- F6** 1993 c. 49

Modifications etc. (not altering text)

- C1** Art. 3 extended (15.2.2007) by Victims and Survivors (Northern Ireland) Order 2006 (S.I. 2006/2953 (N.I. 17)), arts. 1(3), 4(3), **Sch. para. 5(6)**; S.R. 2007/96, art. 2
- C2** Art. 3 extended by Police (Northern Ireland) Act 1998 (c. 32), Sch. 3 para. 3(2A) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 39(5)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
- C3** Art. 3 extended by Justice (Northern Ireland) Act 2002 (c. 26), Sch. 8 para. 3(2A) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 24(4)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
- C4** Art. 3 extended by Justice (Northern Ireland) Act 2002 (c. 26), Sch. 9 para. 4(2A) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 25(4)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
- C5** Art. 3 extended by Judicature (Northern Ireland) Act 1978 (c. 23), s. 75(8) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 21** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)

[^{F7} List of employments and offices for purposes of Article 3

3A.—(1) The Department may specify an employment or office in a list produced for the purposes of Article 3(3A) if paragraph (2), (3) or (4) applies in relation to the employment or office.

- (2) This paragraph applies to an employment or office if—
- (a) at any time on or after the commencement of this Article, the employment or office ceases to be of a kind mentioned in Article 3(3), and
 - (b) immediately before that time persons serving in the employment or office are, or are eligible to be, members of a scheme under Article 3 by virtue of Article 3(3).
- (3) This paragraph applies to an employment or office if—

- (a) at any time before the commencement of this Article, the employment or office ceased to be of a kind mentioned in Article 3(3), and
 - (b) at that time persons serving in the employment or office ceased to be members of a scheme under Article 3 or to be eligible for membership of such a scheme.
- (4) This paragraph applies to an employment or office if—
- (a) it is of a description prescribed by regulations, and
 - (b) the Department determines that it is appropriate for it to be specified for the purposes of Article 3(3A).
- (5) The power to specify an employment or office in reliance on paragraph (4) may be exercised so as to have retrospective effect.
- (6) The Department—
- (a) may at any time amend a list produced under this Article, and
 - (b) must publish the list (and any amendments to it).
- (7) The published list must comply with such requirements, and contain such information, as may be prescribed by regulations.
- (8) Regulations made under this Article are subject to negative resolution.]

F7 Art. 3A inserted (11.3.2014) by [Public Service Pensions Act \(Northern Ireland\) 2014 \(c. 2\), art. 37\(1\)](#) (a), [Sch. 9 para. 3](#)

Further provisions relating to schemes under Article 3

4.—(1) A scheme under Article 3 which makes provision with respect to the pensions, allowances or gratuities which are to be, or may be, paid to or in respect of a person to whom that Article applies and who is incapacitated or dies as a result of an injury sustained, or disease contracted, in circumstances prescribed by the scheme may make the like provision in relation to any other person, being a person who is employed for the purposes of the Government of Northern Ireland, whether temporarily or permanently and whether for reward or not, or is a person holding office in that Government and who is incapacitated or dies as a result of an injury or disease so sustained or contracted.

(2) Any scheme under Article 3 may make provision for the payment by the Ministry of pensions, allowances or gratuities by way of compensation to or in respect of persons—

- (a) to whom that Article applies; and
- (b) who suffer loss of office or employment, or loss or diminution of emoluments, in such circumstances, or by reason of the happening of such an event, as may be prescribed by the scheme.

[^{F8}(3) [^{F9}Subject to paragraph (3A),] No scheme under Article 3 shall make any provision which would have the effect of reducing the amount of any pension, allowance or gratuity, in so far as that amount is directly or indirectly referable to rights which have accrued (whether by virtue of service rendered, contributions paid or any other thing done) before the coming into operation of the scheme, unless the persons consulted in accordance with Article 3(2) have agreed to the inclusion of that provision.]

[^{F10}(3A) Paragraph (3) does not apply to a provision which would have the effect of reducing the amount of a compensation benefit except in so far as the compensation benefit is one provided in respect of a loss of office or employment which is the consequence of—

- (a) a notice of dismissal given before the coming into operation of the scheme which would have that effect, or

(b) an agreement made before the coming into operation of that scheme.

(3B) In this Article—

““compensation benefit”” means so much of any pension, allowance or gratuity as is provided under the civil service compensation scheme by way of compensation to or in respect of a person by reason only of the person's having suffered a loss of office or employment;

““the civil service compensation scheme”” means so much of any scheme under Article 3 (whenever made) as provides by virtue of paragraph (2) for benefits to be provided by way of compensation to or in respect of persons who suffer loss of office or employment.

(3C) In paragraph (3B) a reference to suffering loss of office or employment includes a reference to suffering loss or diminution of emoluments as a consequence of suffering loss of office or employment.]

[^{F11}(3D) So far as it relates to a provision of a scheme under Article 3 which would have the effect of reducing the amount of a compensation benefit, the duty to consult in paragraph (2) of that Article is a duty to consult with a view to reaching agreement with the persons consulted.]

(4) Subject to paragraph (3), any scheme under Article 3, or any provision thereof, may be framed—

- (a) so as to have effect as from a date earlier than the date on which the scheme is made; or
- (b) so as to apply in relation to the pensions, allowances or gratuities paid or payable to or in respect of persons who, having been persons to whom Article 3 applies, have died or ceased to be persons to whom that Article applies before the scheme comes into operation; or
- (c) so as to require or authorise the payment of pensions, allowances or gratuities to or in respect of such persons.

(5) Where an order has been made under Article 3(6), any scheme under that Article may provide for the payment to the Ministry out of the fund specified in the order of benefits or other sums paid by it in accordance with the scheme to or in respect of persons to whom that Article applies by virtue of the order, together with any administrative expenses incurred in connection with the payment of those sums, and for the payment into that fund of contributions paid in accordance with the scheme by or in respect of those persons and of any transfer values received in respect of them.

(6) Any scheme under Article 3 may provide for the determination by the Ministry of questions arising under the scheme and may provide that the decision of the Ministry on any such question shall be final.

(7) Where under any such scheme any question falls to be determined by the Ministry, then, at any time before the question is determined, the Ministry may (and if so directed by the Court of Appeal shall) state in the form of a special case for determination by the Court of Appeal any question of law arising out of the question which falls to be determined by the Ministry.

(8) Before a scheme made under Article 3, being the principal civil service pension scheme or a scheme amending or revoking that scheme, comes into operation the Ministry shall lay a copy of the scheme before Parliament.

[^{F12}(8A) Paragraph (8B) applies if a scheme made under Article 3 makes any provision which would have the effect of reducing the amount of a compensation benefit.

(8B) The scheme shall be subject to negative resolution and before the scheme comes into operation, the Department must have laid before the Assembly a report providing information about—

- (a) the consultation that took place for the purposes of Article 3(2), so far as relating to the provision,

- (b) the steps taken in connection with that consultation with a view to reaching agreement in relation to the provision with the persons consulted, and
- (c) whether such agreement has been reached.]

(9) Notwithstanding any repeal made by this Order, the existing civil service superannuation provisions, that is to say, the transferred provisions listed in Schedule 2, shall, with the necessary adaptations and modifications, have effect as from the commencement of this Order as if they constituted a scheme made under Article 3 in relation to the persons to whom that Article applies, being the principal civil service pension scheme, and coming into operation on the said commencement and may be revoked or amended accordingly.

(10) In this Article “the principal civil service pension scheme” means the principal scheme made under Article 3 relating to persons serving in employment in the civil service.

- F8** 1990 NI 13
- F9** Words in art. 4(3) inserted (with application in accordance with s. 1(4)-(6) of the amending Act) by [Superannuation Act \(Northern Ireland\) 2013 \(c. 1\), ss. 1\(2\), 4\(3\)](#)
- F10** Art. 4(3A)-(3C) inserted (with application in accordance with s. 1(4)-(6) of the amending Act) by [Superannuation Act \(Northern Ireland\) 2013 \(c. 1\), ss. 1\(3\), 4\(3\)](#)
- F11** Art. 4(3D) inserted (with application in accordance with s. 2(4) of the amending Act) by [Superannuation Act \(Northern Ireland\) 2013 \(c. 1\), ss. 2\(2\), 4\(2\)](#)
- F12** Art. 4(8A)-(8B) inserted (with application in accordance with s. 2(4) of the amending Act) by [Superannuation Act \(Northern Ireland\) 2013 \(c. 1\), ss. 2\(3\), 4\(2\)](#)

Recovery in certain circumstances of payments by way of injury allowances

5.—(1) The following provisions of this Article shall have effect where a scheme under Article 3 provides for the payment of a pension, allowance or gratuity to or in respect of a person who is incapacitated or dies as a result of an injury sustained or disease contracted in circumstances prescribed by the scheme, and a pension, allowance or gratuity is paid in accordance with the scheme to or in respect of a person in consequence of an injury or disease so sustained or contracted or of a death resulting from such injury or disease.

(2) If the scheme requires the Ministry to take into account, as against any sums otherwise payable under the scheme, any damages which are recovered or recoverable by or on behalf of the recipient of the pension, allowance or gratuity granted in consequence of the injury, disease or death, being damages in respect of that injury, disease or death, and the Ministry makes any payments without taking such damages into account, then if and when the Ministry is satisfied that there are any damages to be so taken into account, the Ministry shall have the right to recover from the recipient—

- (a) where the amount of the payments made by the Ministry is less than the net amount of the damages, the amount of those payments;
- (b) where the amount of those payments is not less than the net amount of the damages, such part of those payments as is equal to the net amount of the damages.

(3) So far as any amount recoverable under this Article represents a payment made by the Ministry from which income tax has been deducted before payment, the proper allowance shall be made in respect of the amount so deducted, and in this Article “the net amount of the damages” means the amount of the damages after deducting any tax payable in the United Kingdom or elsewhere to which the damages are subject.

(4) No proceedings shall be brought to recover any amount under this Article—

- (a) after the death of the recipient of the payments; or
- (b) after the expiration of two years from the date on which the amount of the damages taken into account in arriving at the amount so recoverable is finally determined (whether in

court proceedings or in arbitration proceedings or by agreement between the parties) or from the date on which the final determination of that amount first came to the knowledge of the Ministry, whichever date is the later.

(5) A certificate issued by the Ministry and stating the date on which the final determination of any amount of damages first came to the knowledge of the Ministry shall be admissible in any proceedings as sufficient evidence of that date.

(6) The provisions of this Article are without prejudice to any right of the Ministry under any such scheme to take damages into account by withholding or reducing any further sums otherwise payable to the recipient of the pension, allowance or gratuity.

Payments due to deceased persons

^{F13}6 .—^{F14}(1) Where on the death of any person there is due to the deceased or his personal representatives from a government department a sum, not exceeding £500^{F15}, in respect of salary, wages or other emoluments or of superannuation benefits payable by virtue of a scheme made under Article 3, probate or other proof of the title of the personal representatives of the deceased may be dispensed with, and the appropriate authority may pay the whole or any part of that sum to those representatives or to the person, or to or among any one or more of any persons, appearing to that authority to be beneficially entitled to the estate of the deceased, and any person to whom such a payment is made, and not the appropriate authority, shall thereafter be liable to account for the amount paid to him under this paragraph.

(2) Paragraph (1) shall be included among the provisions with respect to which the Ministry may make an order under section 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967 substituting for references to £500 such higher amount as may be specified in the order.

(3) The reference to a government department in paragraph (1) shall be construed as including a reference to a body or institution employment by or in which is listed in Schedule 1.

(4) In this Article “the appropriate authority”, in relation to any sum, means the government department, the body, or the trustees or other authority responsible for the institution, as the case may be, from whom that sum is due.

F13 mod by SR 1985/9
F14 mod by SR 2004/68
F15 SR 1985/9

Modifications etc. (not altering text)

C6 Art. 6 modified (8.12.2020) by [The Administration of Estates \(Small Payments\) \(Increase of Limit\) Order \(Northern Ireland\) 2020 \(S.R. 2020/280\)](#), arts. 1, **2(b)**

Benefits under civil service superannuation schemes not assignable

7.—(1) Any assignment of or charge on, and any agreement to assign or charge, any benefit payable under a scheme made under Article 3 shall be void.

(2) Nothing in paragraph (1) shall affect the powers of a court under^{F16} Article 283 of the Insolvency (Northern Ireland) Order 1989].

F16 1989 NI 19

Power to repeal or amend transferred provisions

8.—(1) The Ministry may by order repeal or amend any transferred provision where it appears to the Ministry that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, any provision of Article 3 or 4 or of any scheme made under Article 3 or any repeal made by this Order in consequence of the coming into operation of those Articles.

(2) An order under this Article—

- (a) may be made so as to have effect as from a date before the making of the order; and
- (b) shall be subject to negative resolution.

Changes to legislation:

There are currently no known outstanding effects for the Superannuation (Northern Ireland) Order 1972, Persons employed in the civil service, etc..