
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

General

Interpretation of Part II

121.—(1) In this Part—

“active member”, in relation to an occupational pension scheme, means a person who is in pensionable service under the scheme,

“the actuary” and “the auditor”, in relation to an occupational pension scheme, have the meanings given by Article 47,

[^{F1}“the Authority” means the Pensions Regulator;]

[^{F2}“civil partnership status” in relation to a person, means whether that person has previously formed a civil partnership and, if so, whether that civil partnership has ended,]

“the Compensation Board” means the Pensions Compensation Board.

“the compensation provisions” has the meaning given by Article 79(3),

“the Crown” means the Crown in right of Her Majesty's government in Northern Ireland or in right of Her Majesty's government in the United Kingdom;

“deferred member”, in relation to an occupational pension scheme, means a person (other than an active or pensioner member) who has accrued rights under the scheme,

“employer”, in relation to an occupational pension scheme, means the employer of persons in the description or category of employment to which the scheme in question relates (but see Article 122(3)),

“equal treatment rule” has the meaning given by Article 62,

“firm” means a body corporate or a partnership,

“fund manager”, in relation to an occupational pension scheme, means a person who manages the investments held for the purposes of the scheme,

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

“independent trustee” has the meaning given by Article 23(3),

“managers”, in relation to an occupational pension scheme other than a trust scheme, means the persons responsible for the management of the scheme,

“member”, in relation to an occupational pension scheme, means any active, deferred^{F3}, pensioner or pension credit] member (but see Article 122(4)),

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“normal pension age” has the meaning given by section 175 of the Pension Schemes Act,

“payment schedule” has the meaning given by Article 85(2),

[^{F3}“pension credit” means a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 or under section 29(1)(b) of the Welfare Reform and Pensions Act 1999,

“pension credit member”, in relation to an occupational pension scheme, means a person who has rights under the scheme which are attributable (directly or indirectly) to a pension credit,

“pension credit rights”, in relation to an occupational pension scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit.]

“pensionable service”, in relation to a member of an occupational pension scheme, means service in any description or category of employment to which the scheme relates which qualifies the member (on the assumption that it continues for the appropriate period) for pension or other benefits under the scheme,

“pensioner member”, in relation to an occupational pension scheme, means a person who, in respect of his pensionable service under the scheme or by reason of transfer credits, is entitled to the present payment of pension or other benefits^{F7} . . . ,

“prescribed” means prescribed by regulations,

“professional adviser”, in relation to a scheme, has the meaning given by Article 47,

“public service pension scheme” has the meaning given by section 1 of the Pension Schemes Act,

“resources”, in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme,

“the Taxes Act 1988” means the Income and Corporation Taxes Act 1988^{F8},

“transfer credits” means rights allowed to a member under the rules of an occupational pension scheme by reference to

(a) [^{F9}a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than pension credit rights, or

(b) a cash transfer sum paid under [^{F10}Chapter 2 of Part 4ZA of the Pension Schemes Act (transfers and contribution refunds)] in respect of him, to the trustees or managers of the scheme.]

“trustees or managers”, in relation to an occupational pension scheme, means—

(a) in the case of a trust scheme, the trustees of the scheme, and

(b) in any other case, the managers of the scheme, “trust scheme” means an occupational pension scheme established under a trust

(2) For the purposes of this Part—

(a) the accrued rights of a member of an occupational pension scheme at any time are the rights which have accrued to or in respect of him at that time to future benefits under the scheme, and

- (b) at any time when the pensionable service of a member of an occupational pension scheme is continuing, his accrued rights are to be determined as if he had opted, immediately before that time, to terminate that service,

and references to accrued pension or accrued benefits are to be interpreted accordingly.

[^{F3}(2A) In paragraph (2)(a), the reference to rights which have accrued to or in respect of the member does not include any rights which are pension credit rights.]

(3) In determining what is “pensionable service” for the purposes of this Part—

- (a) service notionally attributable for any purpose of the scheme is to be disregarded, and
(b) no account is to be taken of any rules of the scheme by which a period of service can be treated for any purpose as being longer or shorter than it actually is [^{F3} but, in its application for the purposes of Article 51, sub-paragraph (b) does not affect the operation of any rules of the scheme by virtue of which a period of service is to be rounded up or down by a period of less than a month].

[^{F11}(4) In a case of the winding-up of an occupational pension scheme in pursuance of an order of the Authority under Article 11 or of an order of a court, the winding-up shall (subject to paragraph (8)) [^{F12} and to Articles 24, 138 and 198 of the Pensions (Northern Ireland) Order 2005]) be taken for the purposes of this Part to begin—

- (a) if the order provides for a time to be the time when the winding-up begins, at that time, and
(b) in any other case, at the time when the order comes into force.

(5) In a case of the winding-up of an occupational pension scheme in accordance with a requirement or power contained in the rules of the scheme, the winding-up shall (subject to paragraphs (6) to (8)) [^{F13} and to Articles 138 and 198 of the Pensions (Northern Ireland) Order 2005]) be taken for the purposes of this Part to begin—

- (a) at the time (if any) which under those rules is the time when the winding-up begins, and
(b) if sub-paragraph (a) does not apply, at the earliest time which is a time fixed by the trustees or managers as the time from which steps for the purposes of the winding-up are to be taken.

(6) Paragraph (5) shall not require a winding-up of a scheme to be treated as having begun at any time before the end of any period during which effect is being given—

- (a) to a determination under Article 38 that the scheme is not for the time being to be wound up, or
(b) to a determination in accordance with the rules of the scheme to postpone the commencement of a winding-up.

(7) In paragraph (5)(b) the reference to the trustees or managers of the scheme shall have effect in relation to any scheme the rules of which provide for a determination that the scheme is to be wound up to be made by persons other than the trustees or managers as including a reference to those other persons.

(8) Paragraphs (4) to (7) do not apply for such purposes as may be prescribed.]

F1 [2005 NI 1](#)

F2 [SR 2005/434](#)

F3 [1999 NI 11](#)

F4 Art. 121(1): definition of "member-nominated director" repealed (6.4.2006) by [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), 291, Sch. 11; S.R. 2006/95, [art. 2\(c\)](#), Sch. Pt. 3

F5 Art. 121(1): definition of "member-nominated trustee" repealed (6.4.2006) by [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), 291, Sch. 11; S.R. 2006/95, [art. 2\(c\)](#), Sch. Pt. 3

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- F6** Definition of "minimum funding requirement" in art. 121(1) repealed (6.4.2007) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 291, Sch. 11; S.R. 2006/352, **art. 2(5)**, Sch. Pt. 2 (with art. 3)
- F7** Words in the definition of "pensioner member" in art. 121(1) omitted by virtue of (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 11(7)** 1988 c. 1
- F8** 1988 c. 1
- F9** Art. 121(1): Words in definition of "transfer credits" substituted (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), **Sch. 10 para. 63(2)**; S.R. 2005/543, art. 2(6), **Sch. Pt. 6**
- F10** Words in art. 121(1) substituted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(b), **Sch. 4 para. 78** (with s. 87)
- F11** 2000 c. 4 (NI)
- F12** Words in art. 121(4) inserted (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), **Sch. 10 para. 63(3)**; S.R. 2005/543, art. 2(6), **Sch. Pt. 6**
- F13** Words in art. 121(5) inserted (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), **Sch. 10 para. 63(4)**; S.R. 2005/543, art. 2(6), **Sch. Pt. 6**

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Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72](#)
- power to am. (prosp.) by [1998 c. 47 s.87](#)
- art. 121(1) words inserted by [2016 c. 1 \(N.I.\) s. 45\(7\)](#)
- art. 121(1) words inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 17](#)

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

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

- Sch. 2 para. 18(15)(16) repealed by [2012 c. 3 \(N.I.\) Sch. 2 para. 4\(b\)](#)
- Sch. 2 Pt. 3 para. 18(8) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- Sch. 2 Pt. 3 para. 18(18) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- art. 37(1A)(a) word inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(a\)](#)
- art. 37(1A)(b) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(b\)](#)
- art. 51(5A)-(5C) inserted by [2016 c. 1 \(N.I.\) s. 43\(1\)](#)
- art. 51(7A) inserted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(b\)](#)
- art. 51(9)(10) inserted by [2016 c. 1 \(N.I.\) s. 42\(3\)](#) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by [2016 c. 1 \(N.I.\) s. 45\(3\)](#)
- art. 67A(9)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) s. 45\(6\)\(b\)](#)
- art. 73(2)(2A) substituted for art. 73(2) by [2016 c. 1 \(N.I.\) Sch. 2 para. 11](#)
- art. 75(1)-(1B) substituted for art. 75(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 12](#)
- art. 167(3)(aa) inserted by [2016 c. 1 \(N.I.\) s. 43\(2\)](#)