
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Assignment, forfeiture, bankruptcy, etc.,

Inalienability of occupational pension

89.—(1) Subject to paragraph (5), where a person is entitled^[F1] to a pension under an occupational pension scheme or has a right to a future pension under such a scheme]

- (a) the entitlement or right cannot be assigned, commuted or surrendered,
- (b) the entitlement or right cannot be charged or a lien exercised in respect of it, and
- (c) no set-off can be exercised in respect of it,

and an agreement to effect any of those things is unenforceable.

(2) Where by virtue of this Article a person's entitlement^[F1] to a pension under an occupational pension scheme, or right to a future pension under such a scheme,] cannot, apart from paragraph (5), be assigned, no order can be made by any court the effect of which would be that he would be restrained from receiving that pension.

Para. (3) rep. by 1999 NI 11

(4) Paragraph (2) does not prevent the making of—

- (a) an attachment of earnings order under the Judgments Enforcement (Northern Ireland) Order 1981^{F2}, or
- (b) an income payments order under the Insolvency (Northern Ireland) Order 1989^{F3}.

(5) In the case of a person (“the person in question”) who is entitled^[F1] to a pension under an occupational pension scheme, or has a right to a future pension under such a scheme], paragraph (1) does not apply to any of the following, or any agreement to effect any of the following—

- (a) an assignment in favour of the person in question's widow, widower^[F4], surviving civil partner] or dependant,
- (b) a surrender, at the option of the person in question, for the purpose of—
 - (i) providing benefits for that person's widow, widower^[F4], surviving civil partner] or dependant, or
 - (ii) acquiring for the person in question entitlement to further benefits under the scheme,
- (c) a commutation—
 - (i) of the person in question's benefit on or after retirement or in exceptional circumstances of serious ill health,

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- (ii) in prescribed circumstances, of any benefit for that person's widow, widower^{F4}, surviving civil partner] or dependant, or
- (iii) in other prescribed circumstances,
- (d) subject to paragraph (6), a charge or lien on, or set-off against, the person in question's entitlement, or^{F1} right,] (except to the extent that it includes transfer credits other than prescribed transfer credits) for the purpose of enabling the employer to obtain the discharge by him of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by him,
- (e) subject to paragraph (6), except in prescribed circumstances a charge or lien on, or set-off against, the person in question's entitlement, or^{F1} right], for the purpose of discharging some monetary obligation due from the person in question to the scheme and—
 - (i) arising out of a criminal, negligent or fraudulent act or omission by him, or
 - (ii) in the case of a trust scheme of which the person in question is a trustee, arising out of a breach of trust by him.
- ^{F5}(f) subject to paragraph (6), a charge or lien on, or set-off against, the person in question's entitlement, or right, for the purpose of discharging some monetary obligation due from the person in question to the scheme arising out of a payment made in error in respect of the pension.]
- (6) Where a charge, lien or set-off is exercisable by virtue of paragraph (5)(d)^{F5}, (e) or (f)
 - (a) its amount must not exceed the amount of the monetary obligation in question, or (if less) the value (determined in the prescribed manner) of the person in question's entitlement or accrued right, and
 - (b) the person in question must be given a certificate showing the amount of the charge, lien or set-off and its effect on his benefits under the scheme,

and where there is a dispute as to its amount, the charge, lien or set-off must not be exercised unless the obligation in question has become enforceable under an order of a competent court or in consequence of an award of an arbitrator.

(7) This Article is subject to section 155 of the Pension Schemes Act (inalienability of guaranteed minimum pension ^{F6} ...).

F1	1999 NI 11
F2	1981 NI 6
F3	1989 NI 19
F4	SR 2005/434
F5	2005 NI 1
F6	Words in art. 89(7) omitted (6.4.2012) by virtue of The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124) , arts. 1(b), 5(3)

Modifications etc. (not altering text)

- C1** Art. 89 applied (1.4.2015) by [The Teachers Pension Scheme Regulations \(Northern Ireland\) 2014 \(S.R. 2014/310\)](#), regs. 1, **180(2)**
- C2** Art. 89 excluded (1.4.2015) by [The Teachers Pension Scheme Regulations \(Northern Ireland\) 2014 \(S.R. 2014/310\)](#), regs. 1, **195(2)**
- C3** Art. 89 restricted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), ss. **105(1)(2)**, 131(1)(2)(f)

Forfeiture, etc.

90.—(1) Subject to paragraphs (2) to (6) and Article 91, an entitlement^[F7] to a pension under an occupational pension scheme or a right to a future pension under such a scheme] cannot be forfeited.

(2) Paragraph (1) does not prevent forfeiture by reference to—

(a) a transaction or purported transaction which under Article 89 is of no effect,^{F8} . . .

Sub#para. (b) rep. by 1999 NI 11

whether or not that event occurred before or after the pension became payable.

(3) Where such forfeiture as is mentioned in paragraph (2) occurs, any pension which was, or would but for the forfeiture have become, payable may, if the trustees or managers of the scheme so determine, be paid to all or any of the following—

(a) the member of the scheme to or in respect of whom the pension was, or would have become, payable,

^[F9](b) the spouse, civil partner, widow, widower or surviving civil partner of the member,]

(c) any dependant of the member, and

(d) any other person falling within a prescribed class.

(4) Paragraph (1) does not prevent forfeiture by reference to the^[F7] pensioner, or prospective pensioner], having been convicted of one or more offences—

(a) which are committed before the pension becomes payable, and

(b) which are—

(i) offences of treason,

(ii) offences under the Official Secrets Acts 1911 to 1989 for which the person has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years, or

(iii) prescribed offences.

(5) Paragraph (1) does not prevent forfeiture by reference to a failure by any person to make a claim for pension—

(a) where the forfeiture is in reliance on any enactment relating to the limitation of actions, or

(b) where the claim is not made within six years of the date on which the pension becomes due.

(6) Paragraph (1) does not prevent forfeiture in prescribed circumstances.

(7) In this Article and Article 91, references to forfeiture include any manner of deprivation or suspension.

F7 1999 NI 11

F8 1999 NI 11

F9 SR 2005/434

Modifications etc. (not altering text)

C4 Art. 90(1) modified (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/107\)](#), **regs. 1(a), 10**

Forfeiture by reference to obligation to employer

91.—(1) Subject to paragraph (2), Article 90(1) does not prevent forfeiture of a person's entitlement^[F10] to a pension under an occupational pension scheme or right to a future pension under

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such a scheme] by reference to the person having incurred some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by the person.

(2) A person's entitlement^[F10 right] may be forfeited by reason of paragraph (1) to the extent only that it does not exceed the amount of the monetary obligation in question, or (if less) the value (determined in the prescribed manner) of the person's entitlement or^[F10 right].

(3) Such forfeiture as is mentioned in paragraph (1) must not take effect where there is a dispute as to the amount of the monetary obligation in question, unless the obligation has become enforceable under an order of a competent court or in consequence of an award of an arbitrator.

(4) Where a person's entitlement or^[F10 right] is forfeited by reason of paragraph (1), the person must be given a certificate showing the amount forfeited and the effect of the forfeiture on his benefits under the scheme.

(5) Where such forfeiture as is mentioned in paragraph (1) occurs, an amount not exceeding the amount forfeited may, if the trustees or managers of the scheme so determine, be paid to the employer.

F10 1999 NI 11

Articles 89 to 91: supplementary

92.—(1) Regulations may—

- (a) modify Articles 89 to 91 in their application to public service pension schemes or to other schemes falling within a prescribed class or description, or
- (b) provide that those Articles do not apply in relation to schemes falling within a prescribed class or description.

(2) In those Articles, “pension” in relation to an occupational pension scheme, includes any benefit under the scheme and any part of a pension and any payment by way of pension.

Art. 93 rep. by 1999 NI 11

Arts. 94 - 112 rep. by 2005 NI 1

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