
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Receipts, payments and records

Other responsibilities of trustees, employers, etc.

49.—(1) The trustees of any trust scheme must, except in any prescribed circumstances, keep any money received by them in a separate account kept by them^[F1] with a deposit-taker].

Para. (1A) rep. by SI 2001/3649

(2) Regulations may require the trustees of any trust scheme to keep—

- (a) records of their meetings (including meetings of any of their number), and
- (b) books and records relating to any prescribed transaction.

(3) Regulations may, in the case of any trust scheme, require the employer, and any prescribed person acting in connection with the scheme, to keep books and records relating to any prescribed transaction.

(4) Regulations may require books or records kept under paragraph (2) or (3) to be kept in a prescribed form and manner and for a prescribed period.

(5) Regulations must, in cases where payments of benefit to members of trust schemes are made by the employer, require the employer to make into a separate account kept by him^[F1] with a deposit-taker] and payments of benefit which have not been made to the members within any prescribed period.

(6) If in the case of any trust scheme any requirements imposed by or under paragraph (1) or (2) are not complied with,^[F2] Article 10 applies] to any trustee who has failed to take all such steps as are reasonable to secure compliance.

(7) If in the case of any trust scheme any person fails to comply with any requirement imposed under paragraph (3) or (5), Article 10 applies to him.

^[F3](8) Where on making a payment of any earnings in respect of any employment there is deducted any amount corresponding to any contribution payable on behalf of an active member of an occupational pension scheme, the amount deducted is to be paid, within a prescribed period, to the trustees or managers of the scheme.

^[F1](8A) “Deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;

^[F4](b)

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- (c) the Bank of England ^{F5} ...
 - (d) the National Savings Bank; or
 - (e) a municipal bank, that is to say a company which was, immediately before the repeal of the Banking Act 1987, exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act.
- (8B) Paragraph (8A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.]
- (9) If in any case there is a failure to comply with paragraph (8)—
- (a) Article 10 applies to the employer; and
 - [if the trustees or managers have reasonable cause to believe that the failure is likely to ^{F6}(b) be of material significance in the exercise by the Authority of any of their functions, they must, except in prescribed circumstances, give notice of the failure to the Authority and the member within a reasonable period after the end of the prescribed period under paragraph (8).]
- (10) If in any case paragraph (9)(b) is not complied with—
- Sub-para. (a) rep. by 2005 NI 1*
- (b) Article 10 applies to any trustee or manager who has failed to take all^{F2} reasonable steps to secure compliance].
- (11) If any person is knowingly concerned in the fraudulent evasion of the obligation imposed by paragraph (8) in any case, he is guilty of an offence.
- (12) A person guilty of an offence under paragraph (11) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or both.
- (13) A person shall not be required by virtue of paragraph (9)(a) to pay a penalty under Article 10 in respect of a failure if in respect of that failure he has been—
- (a) required to pay a penalty under that Article by virtue of Article 5(7) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (failures in respect of stakeholder pensions), or
 - (b) convicted of an offence under paragraph (11).]

F1 SI 2001/3649

F2 2005 NI 1

F3 1999 NI 11

F4 Art. 49(8A)(b) omitted (31.12.2020) by virtue of *The Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/193)*, regs. 1, **3(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F5 Words in art. 49(8A)(c) omitted (31.12.2020) by virtue of *The Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/193)*, regs. 1, **3(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F6 Art. 49(9)(b) substituted (1.7.2005 for certain purposes, otherwise 6.4.2006) by *Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))*, arts. **1(2)**, 246(1); S.R. 2005/321, art. 2(15), **Sch. Pt. 2**

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Modifications etc. (not altering text)

C1 [Art. 49\(8\)](#) excluded (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by [Pension Schemes Act 2021 \(c. 1\)](#), s. 131(1)(3)(a), [Sch. 5 para. 1\(2\)\(b\)](#); S.R. 2022/197, art. 3(a)

[^{F7}Record of winding-up decisions

49A.—(1) Except in so far as regulations otherwise provide, the trustees or managers of an occupational pension scheme shall keep written records of—

- (a) any determination for the winding-up of the scheme in accordance with its rules,
- (b) decisions as to the time from which steps for the purposes of the winding-up of the scheme are to be taken,
- (c) determinations under Article 38,
- (d) determinations in accordance with the rules of the scheme to postpone the commencement of a winding-up of the scheme.

(2) For the purpose of this Article—

- (a) the determinations and decisions of which written records must be kept under this Article include determinations and decisions by persons who—
 - (i) are not trustees or managers of a scheme, but
 - (ii) are entitled, in accordance with the rules of a scheme, to make a determination for its winding-up, and
- (b) regulations may, in relation to such determinations or decisions as are mentioned in subparagraph (a), impose obligations to keep written records on the persons making the determinations or decisions (as well as, or instead of, on the trustees or managers).

(3) Regulations may provide for the form and content of any records that are required to be kept under this Article.

Para. (4) rep. by 2005 NI 1

(5) Article 10 applies to any trustee or manager of a scheme who fails to take all such steps as are reasonable to secure compliance by the trustees or managers of that scheme with those obligations.]

F7 [2000 c. 4 \(NI\)](#)

Changes to legislation:

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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](#)

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\(2\)](#)