
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Trustees: general

Trustee not to be auditor or actuary of the scheme

27.—(1) A trustee of a trust scheme, and any person who is connected with, or an associate of, such a trustee, is ineligible to act as an auditor or actuary of the scheme.

(2) Paragraph (1) does not make a person who is a director, partner or employee of a firm of actuaries ineligible to act as an actuary of a trust scheme merely because another director, partner or employee of the firm is a trustee of the scheme.

(3) Paragraph (1) does not make a person who falls within a prescribed class or description ineligible to act as an auditor or actuary of a trust scheme.

(4) A person must not act as an auditor or actuary of a trust scheme if he is ineligible under this Article to do so.

(5) In this Article and Article 28 references to a trustee of a trust scheme do not include—

- (a) a trustee, or
- (b) a trustee of a scheme,

falling within a prescribed class or description.

Article 27: consequences

28.—(1) Any person who acts as an auditor or actuary of a trust scheme in contravention of Article 27(4) is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to imprisonment or a fine, or both.

(2) An offence under paragraph (1) may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under that paragraph by reference to any period of time following the preceding conviction of the offence.

(3) Acts done as an auditor or actuary of a trust scheme by a person who is ineligible under Article 27 to do so are not invalid merely because of that fact.

Para. (4) rep. by 2005 NI 1

Persons disqualified for being trustees

29.—(1) Subject to paragraph (5), a person is disqualified for being a trustee of any trust scheme if—

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- (a) he has been convicted of any offence involving dishonesty or deception,
 - (b) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged [^{F1}or he is the subject of a bankruptcy restrictions order],
 - [^{F2}(ba) a moratorium period under a debt relief order (under Part 7A of the Insolvency (Northern Ireland) Order 1989) applies in relation to him or he is the subject of a debt relief restrictions order under Schedule 2ZB of the Insolvency (Northern Ireland) Order 1989,]
 - (c) where the person is a company, if any director of the company is disqualified under this Article,
 - (d) where the person is a Scottish partnership, if any partner is disqualified under this Article,
 - (e) he has made an arrangement or a composition contract with, or granted a trust deed for the behoof of, his creditors and has not been discharged in respect of it, or
 - (f) he is subject to a disqualification order [^{F3} or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002 or to such an order or undertaking] under any corresponding enactment for the time being in force in Great Britain.
- (2) In paragraph (1)—
- (a) sub-paragraph (a) applies whether the conviction occurred before or after the coming into operation of that paragraph, but does not apply in relation to any conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978^{F4},
 - (b) sub-paragraph (b) applies whether the adjudication of bankruptcy or the sequestration [^{F5}or the making of the bankruptcy restrictions order] occurred before or after the coming into operation of that paragraph,
 - (c) sub-paragraph (e) applies whether the arrangement or composition contract was made, or the trust deed was granted, before or after the coming into operation of that paragraph, and
 - (d) sub-paragraph (f) applies in relation to orders made before or after the coming into operation of that paragraph.

Paras. (3) & (4) rep. by 2005 NI 1

(5) The Authority may, on the application of any person disqualified under this Article—

- (a) give notice in writing to him waiving his disqualification,

Sub-para. (b) rep. by 2005 NI 1

either generally or in relation to a particular scheme or particular [^{F6} description] of schemes.

(6) A notice given^{F6} . . . at any time by virtue of paragraph (5) cannot affect anything done before that time.

F1 Words in art. 29(1)(b) inserted (13.5.2008) by [Insolvency \(Disqualification from Office: General\) Order \(Northern Ireland\) 2008 \(S.R. 2008/94\)](#), arts. 1, 2, **Sch. Pt. 1 para. 5(a)**

F2 Art. 29(1)(ba) inserted (7.3.2016) by [The Debt Relief Act \(Northern Ireland\) 2010 \(Consequential Amendments\) Order \(Northern Ireland\) 2016 \(S.R. 2016/108\)](#), art. 1, **Sch. para. 16(2)(c)**

F3 2002 NI 4

F4 1978 NI 27

F5 Words in art. 29(2)(b) inserted (13.5.2008) by [Insolvency \(Disqualification from Office: General\) Order \(Northern Ireland\) 2008 \(S.R. 2008/94\)](#), arts. 1, 2, **Sch. Pt. 1 para. 5(b)**

F6 2005 NI 1

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Persons disqualified: consequences

30.—^[F7](1) Where a person who is a trustee of a trust scheme becomes disqualified under Article 29 in relation to the scheme, his becoming so disqualified has the effect of removing him as a trustee.]

(2) Where—

(a) a trustee of a trust scheme becomes disqualified under Article 29,^{F7} . . .

Sub-para. (b) rep. by 2005 NI 1

the Authority may exercise^[F7 by order] the same jurisdiction and powers as are exercisable by the High Court for vesting any property in, or transferring any property to, the trustees.

(3) A person who purports to act as a trustee of a trust scheme while he is disqualified under Article 29 is guilty of an offence and liable—

(a) on summary conviction to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to a fine or imprisonment or both.

(4) An offence under paragraph (3) may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under that paragraph by reference to any period of time following the preceding conviction of the offence.

(5) Things done by a person disqualified under Article 29 while purporting to act as trustee or a trust scheme are not invalid merely because of that disqualification.

(6) Nothing in Article 29 or this Article affects the liability of any person for things done, or omitted to be done, by him while purporting to act as trustee of a trust scheme.

Paras. (7) & (8) rep. by 2005 NI 1

F7 2005 NI 1

Art. 30A rep. by 2005 NI 1

Art. 31 rep. by 2005 NI 1

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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\(2\)](#)