
STATUTORY INSTRUMENTS

1999 No. 3147

The Welfare Reform and Pensions (Northern Ireland) Order 1999

PART II

STAKEHOLDER PENSION SCHEMES

Modifications etc. (not altering text)

- C1** Pt. II (arts. 3-9) power to modify conferred (6.4.2006) by [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), 294(d); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- C2** Pt. II (arts. 3-9) power to modify conferred (15.12.2008) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 115(2)(c), 118(2)(g)

Meaning of “stakeholder pension scheme”

3.—(1) A pension scheme is a stakeholder pension scheme for the purposes of this Part if it is registered as such a scheme under Article 4 and each of the following is fulfilled, namely—

- (a) the conditions set out in paragraphs (2)^[F1] to (10); and
- (b) such other conditions as may be prescribed.

(2) The first condition is that the scheme is established under a trust or in such other way as may be prescribed.

(3) The second condition is that the provisions made by the instruments establishing the scheme comply with such requirements as may be prescribed.

(4) The third condition is that, subject to such exceptions as may be prescribed, the benefits provided by the scheme are money purchase benefits within the meaning given by section 176 of the Pension Schemes Act.

(5) The fourth condition is that the scheme complies with such requirements as may be prescribed as regards the extent to which, and the circumstances in which—

- (a) any payment made to the scheme^[F1] by, or on behalf or in respect of,] a member of the scheme;
- (b) any income or capital gain arising from the investment of such a payment; or
- (c) the value of rights under the scheme,

may be used to defray the administrative expenses of the scheme, to pay commission or in any other way which does not result in the provision of benefits for or in respect of members.

(6) The fifth condition is that the scheme complies with such of the requirements of regulations under section 109 of the Pension Schemes Act (disclosure of information about schemes to members etc.)^[F2] as are applicable to it.

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(7) The sixth condition is that, subject to such minimum contribution levels and other restrictions as may be prescribed, members of the scheme may make such contributions to the scheme as they think appropriate.

(8) The seventh condition is that, except in so far as is necessary to ensure that the scheme has tax-exemption or tax-approval (within the meaning of the Pension Schemes Act), the scheme accepts transfer payments in respect of members' rights under—

- (a) other pension schemes;
- (b) contracts and schemes approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (retirement annuity contracts);
- (c) annuities and insurance policies purchased or transferred for the purpose of giving effect to rights under pension schemes; and
- (d) annuities purchased or entered into for the purpose of discharging liability in respect of pension credits under Article 26(1)(b) or under section 29(1)(b) of the Welfare Reform Act.

(9) The eighth condition is that the scheme has such exemption or approval as is mentioned in paragraph (8).

[^{F1}(10) The ninth condition is that—

- (a) if the scheme is an occupational pension scheme, it is specified in a contracting-out certificate in relation to all categories of employment to which the scheme relates, and
- (b) if the scheme is a personal pension scheme, it is an appropriate scheme within the meaning of section 3(4) of the Pension Schemes Act.]

F1 2005 NI 1

F2 prosp. insertion by 2005 NI 1

Registration of stakeholder pension schemes

4.—(1) The Authority shall keep a register of stakeholder pension schemes.

(2) Subject to paragraph (3), the Authority shall register a pension scheme under this Article if the trustees of the scheme, or any person or persons prescribed in relation to the scheme—

- (a) make an application for the purpose and pay such fee as the Authority may determine; and
- (b) declare that each of the following is fulfilled in relation to the scheme, namely—
 - (i) the conditions set out in paragraphs (2)[^{F3} to (10)] of Article 3; and
 - (ii) such other conditions as may be prescribed under paragraph (1) of that Article.

(3) Where the Authority are satisfied on reasonable grounds that any of those conditions is not fulfilled in relation to a pension scheme, the Authority may[^{F3} by direction]

- (a) refuse to register the scheme; or
- (b) where the scheme is registered under this Article, remove it from the register.

(4) [^{F3}Article 10 of the Pensions Order (civil penalties) applies to any trustee of a pension scheme which is or has been registered under this Article, and] to any person prescribed in relation to such a scheme, if—

- (a) he fails to take all such steps as are reasonable to secure that each of those conditions is fulfilled in relation to the scheme or (as the case may be) while the scheme was so registered he failed to take all such steps as were reasonable to secure that each of those conditions was so fulfilled; or

- (b) where the scheme was registered on his application, any of those conditions was not fulfilled in relation to the scheme at the time of the application.

Para. (5) rep. by 2005 NI 1

- (6) The Department may by regulations make provision—

- (a) for the register, or extracts from the register, or for copies of the register or of extracts from the register, to be open to inspection by, and
- (b) for copies of the register, or of extracts from it, to be supplied to,

such persons, in such manner, at such times, on payment of such fees, and subject to such other terms and conditions, as may be prescribed.

F3 2005 NI 1

Duty of employers to facilitate access to stakeholder pension schemes

5.—(1) Except in so far as regulations otherwise provide, it shall be the duty of an employer of relevant employees to comply with the requirements set out below.

(2) The first requirement is that the employer shall ensure that at all times there is at least one scheme designated by him for the purposes of this paragraph which is registered under Article 4 and offers membership to all his relevant employees (whether or not any other scheme registered under that Article which does not offer membership to all those employees is for the time being designated by him for those purposes).

Before designating a scheme for the purposes of this paragraph the employer shall consult with his relevant employees and any organisations representing them.

- (3) The second requirement is that the employer shall supply his relevant employees with—

- (a) the name and address of the designated scheme or, as the case may be, of each of the designated schemes; and
- (b) such other information as may be prescribed.

(4) The third requirement is that the employer shall allow representatives of the designated scheme or schemes reasonable access to his relevant employees for the purpose of supplying them with information about the scheme or schemes.

(5) The fourth requirement is that, subject to such exceptions and qualifications as may be prescribed, the employer shall, if he is requested to do so by a relevant employee of his who is a member of a qualifying scheme—

- (a) deduct the employee's contributions to the scheme from his remuneration; and
- (b) pay them to the trustees or managers of the scheme or, if regulations so provide, to a prescribed person.

(6) The fifth requirement is that the employer shall, if any scheme designated by him for the purposes of paragraph (2) ceases to be registered under Article 4, withdraw his designation of the scheme (but this requirement is not to be taken as implying that he cannot withdraw his designation of a scheme in other circumstances).

(7) Article 10 of the Pensions Order (civil penalties) applies to an employer who fails to comply with any of the requirements set out above.

(8) An employer is not, whether before designating a scheme for the purposes of paragraph (2) or at any time while a scheme is designated by him for those purposes, under any duty—

- (a) to make any enquiries, or act on any information, about the scheme for any purpose not connected with—
 - (i) ascertaining whether the scheme is for the time being registered under Article 4,

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- (ii) ascertaining the persons to whom it offers membership, or
 - (iii) enabling him to comply with paragraph (3), or
 - (b) in particular, to investigate or monitor, or make any judgment as to, the past, present or future performance of the scheme.
- (9) In this Article—
- “employer” means any employer, whether or not resident or incorporated in any part of the United Kingdom;
- “qualifying scheme”, in relation to an employer, means—
- (a) the designated scheme or one of the designated schemes; or
 - (b) if regulations so provide, any other stakeholder pension scheme;
- “regulations” means regulations made by the Department;
- “relevant employees”, in relation to an employer, means all employees of his employed in Northern Ireland and also, in the case of an employer resident or incorporated in Northern Ireland, all employees of his employed outside the United Kingdom, but with the exception, in the case of any employer, of any employees of his—
- (a) whose employment qualifies them for membership of an occupational pension scheme of the employer;
 - (b) whose earnings fall below the lower earnings limit as defined in section 176 of the Pension Schemes Act; or
 - (c) who are of such other description as may be prescribed.

Arts. 6#7 rep. by 2005 NI 1

Application of certain statutory provisions

8.—(1) Articles 69 and 133 of the Employment Rights (Northern Ireland) Order 1996 (occupational pension scheme trustees: protection from unfair dismissal and other detriment) shall apply in relation to an employee who is (or is a director of a company which is) a trustee of a scheme designated by his employer under Article 5(2) as they apply in relation to an employee who is (or is a director of a company which is) a trustee of a relevant occupational pension scheme which relates to his employment.

(2) Article 86 of that Order (occupational pension scheme trustees: time off) shall apply to the employer in relation to a designated scheme as it applies to the employer in relation to a relevant occupational pension scheme.

(3) Schedule 1 (application of the Pension Schemes Act and the Pensions Order to registered schemes) shall have effect.

(4) In this Article “relevant occupational pension scheme” has the meaning given by Article 69 of the Employment Rights (Northern Ireland) Order 1996.

Interpretation and application of Part II

9.—(1) In this Part—

[^{F4}“the Authority” means the Pensions Regulator;]

“designated scheme” in relation to an employer, means a scheme designated by him for the purposes of Article 5(2);

“occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act;

“pension scheme” means an occupational pension scheme or a personal pension scheme;

“prescribed” means prescribed by regulations made by the Department;

“stakeholder pension scheme” shall be construed in accordance with Article 3.

(2) The Department may by regulations make provision for a stakeholder pension scheme which—

(a) is^{F4} prescribed or is] of a prescribed description, and

(b) would (apart from the regulations) be an occupational pension scheme,

to be treated for all purposes, or for such purposes as may be prescribed, as if it were a personal pension scheme and not an occupational pension scheme.

(3) This Part applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes; and, accordingly, references in this Part to a person in his capacity as a trustee or manager of, or person prescribed in relation to, a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(4) This Part applies to persons employed by or under the Crown in like manner as if such persons were employed by a private person; and references in this Part to a person in his capacity as an employer include the Crown, or a person acting on behalf of the Crown, in that capacity.

(5) Paragraphs (3) and (4) do not apply to any provision of this Part under which a person may be prosecuted for an offence; but such a provision applies to persons in the public service of the Crown as it applies to other persons.

(6) Nothing in this Part applies to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

F4 2005 NI 1

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