

---

STATUTORY INSTRUMENTS

---

**1999 No. 3147**

The Welfare Reform and Pensions  
(Northern Ireland) Order 1999

PART III **N.I.**

PENSIONS: GENERAL

**Modifications etc. (not altering text)**

- C1** Pt. III (arts. 10-17) 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. III (arts. 10-17) power to modify conferred (15.12.2008) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), **ss. 115(2)(c)**, 118(2)(g)

*Payments by employers to pension schemes*

**Monitoring of employers' payments to personal pension schemes **N.I.****

**10.** In Part VI of the Pension Schemes Act (further requirements for protection of scheme members), after section 107 there shall be inserted—

**“Monitoring of employers' payments to personal pension schemes.**

**107A.**—(1) This section applies where—

- (a) an employee is a member of a personal pension scheme; and
- (b) direct payment arrangements exist between the employee and his employer.

(2) In this section “direct payment arrangements” means arrangements under which contributions fall to be paid by or on behalf of the employer towards the scheme—

- (a) on the employer's own account (but in respect of the employee); or
- (b) on behalf of the employee out of deductions from the employee's earnings.

(3) The employer must secure that there is prepared, maintained and from time to time revised a record of the direct payment arrangements which complies with subsection (4).

(4) The record must—

- (a) show the rates and due dates of contributions payable under the direct payment arrangements, and
- (b) satisfy prescribed requirements.

(5) The employer must, within the prescribed period after the preparation or any revision of the record, send a copy of the record or (as the case may be) of the revised record to the trustees or managers of the scheme.

(6) Except in prescribed circumstances, the trustees or managers of the scheme must, where any contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date, give notice of that fact, within the prescribed period, to the Regulatory Authority and the employee.

(7) The trustees or managers of the scheme must before the end of prescribed intervals send the employee a statement setting out the amounts and dates of the payments made under the direct payment arrangements during a prescribed period.

(8) If—

- (a) the employer fails to take all such steps as are reasonable to secure compliance with subsection (3) or (5), or
- (b) a contribution payable under the direct payment arrangements is not paid to the trustees or managers of the scheme on or before its due date,

Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) applies to the employer.

(9) If subsection (6) or (7) is not complied with, Article 10 of the Pensions (Northern Ireland) Order 1995 applies to any trustee or manager of the scheme who has failed to take all such steps as are reasonable to secure compliance.

(10) If—

- (a) subsection (6) or (7) is not complied with, and
- (b) the scheme—

(i) is established under a trust, and

(ii) is or has been registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (stakeholder schemes),

Article 3 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to remove trustees) applies to any trustee of the scheme who has failed to take all such steps as are reasonable to secure compliance.

(11) A person shall not be required by virtue of subsection (8)(b) to pay a penalty under Article 10 of the Pensions (Northern Ireland) Order 1995 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 subsection (12).

(12) A person is guilty of an offence if he is knowingly concerned in the fraudulent evasion of the direct payment arrangements so far as they are arrangements for the payment by him or any other person of any such contribution towards the scheme as is mentioned in subsection (2)(b).

(13) A person guilty of an offence under subsection (12) 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.

(14) No prosecution shall be brought against the Crown for an offence under subsection (12), but that subsection applies to persons in the public service of the Crown as to other persons.

(15) In this section “due date”, in relation to a contribution payable under the direct payment arrangements, means—

- (a) if the contribution falls to be paid on the employer's own account, the latest day under the arrangements for paying it;
  - (b) if the contribution falls to be paid on behalf of the employee, the last day of a prescribed period.
- (16) Regulations may provide for this section to apply with such modifications as may be prescribed in a case where—
- (a) the direct payment arrangements give effect to a requirement arising under paragraph (5) of Article 5 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (deduction and payment of employee's contributions to stakeholder scheme), and
  - (b) in accordance with regulations under that paragraph, that requirement is for the employer to pay contributions to a person prescribed by such regulations (instead of to the trustees or managers of the scheme).
- (17) Nothing in this section shall be taken as varying the provisions of the direct payment arrangements or as affecting their enforceability.

**Obtaining information for purposes of section 107A and corresponding legislation in Great Britain.**

**107B.**—(1) Any person appearing to the Regulatory Authority to be a person who holds, or is likely to hold, information which is relevant to the issue—

- (a) whether any provision made by or under section 107A is being, or has been, complied with by an employer or the trustees or managers of a personal pension scheme,
- (b) whether, in the case of any direct payment arrangements existing between an employee and his employer, there has been such a failure to pay a contribution as is mentioned in subsection (8)(b) of that section, or
- (c) whether an offence has been committed under subsection (12) of that section in relation to any such arrangements,

must, if required to do so by the Regulatory Authority by notice in writing, produce any document which is so relevant.

(2) To comply with subsection (1) the document must be produced in such a manner, at such a place and within such a period as may be specified in the notice.

(3) An inspector may, for the purposes of investigating any of the matters set out in subsection (1)(a) to (c), at any reasonable time enter premises liable to inspection and, while there—

- (a) may make such examination and inquiry as may be necessary for such purposes,
- (b) may require any person on the premises to produce for his inspection, or secure the production for his inspection of, any document relevant—
  - (i) to compliance with any provision made by or under section 107A, or with the direct payment arrangements, or
  - (ii) to the issue whether an offence has been committed under subsection (12) of that section in relation to those arrangements, and
- (c) may, as to any matter so relevant, examine, or require to be examined, either alone or in the presence of another person, any person on the premises whom he has reasonable cause to believe to be able to give information relevant to that matter.

(4) An inspector applying for admission to any premises in pursuance of subsection (3) must, if so required, produce his certificate of appointment.

(5) For the purposes of subsection (3) premises are liable to inspection if the inspector has reasonable grounds to believe that—

- (a) employees of the employer are employed there,
- (b) documents relevant to the administration of—
  - (i) the employer's business,
  - (ii) the direct payment arrangements, or
  - (iii) the scheme to which those arrangements relate, are kept there, or
- (c) either of the following is being carried out there, namely—
  - (i) the administration of the employer's business, the arrangements or the scheme, or
  - (ii) work connected with the administration of the employer's business, the arrangements or the scheme,

unless the premises are a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

(6) Article 98 of the Pensions (Northern Ireland) Order 1995 (warrants) shall have effect as if references to Article 96(1) or 97(1)(b) of that Order included references to subsection (1) or (3)(b).

(7) Articles 99 to 101 of that Order (penalties, savings and reports) shall have effect as if references which are or include references to Article 96 or 97 of that Order included references to this section.

(8) In this section—

“direct payment arrangements” has the same meaning as in section 107A;

“document” includes information recorded in any form, and any reference to production of a document, in relation to information recorded otherwise than in legible form, is to producing a copy of the information in legible form;

“inspector” means a person appointed by the Regulatory Authority as an inspector.

(9) References in this section to, or to any provision of, section 107A include references to corresponding provisions of legislation in Great Britain; and in this section as it has effect in relation to those corresponding provisions, “employee” and “employer” have the same meaning as they have for the purposes of those provisions.”.

### **Late payments by employers to occupational pension schemes** N.I.

**11.**—(1) For Article 49(8) of the Pensions Order (offence where deduction from earnings not paid in timely fashion to occupational pension scheme) there shall be substituted—

“(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.

(9) If in any case there is a failure to comply with paragraph (8)—

- (a) Article 10 applies to the employer; and
- (b) except in prescribed circumstances, the trustees or managers must give notice of the failure, within the prescribed period, to the Authority and the member.

(10) If in any case paragraph (9)(b) is not complied with—

- (a) Article 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance; and
  - (b) Article 10 applies to any trustee or manager who has failed to take all such steps.
- (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).” .

(2) In Article 86(3) of that Order (civil penalty where contributions by or on behalf of employer to occupational pension scheme not paid by due date) after “by or on behalf of the employer” there shall be inserted “on the employer's own account”.

#### *Pensions and bankruptcy*

### **Effect of bankruptcy on pension rights: approved arrangements** **N.I.**

**12.**—(1) Where a bankruptcy order is made against a person on a petition presented after the coming into operation of this Article, any rights of his under an approved pension arrangement are excluded from his estate.

(2) In this Article “approved pension arrangement” means—

- [<sup>F1</sup>(a) a pension scheme registered under section 153 of the Finance Act 2004;]
- (b) <sup>F2</sup> .....
- (c) [<sup>F3</sup>an occupational pension scheme] set up by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees;
- (d) <sup>F4</sup> .....
- (e) <sup>F4</sup> .....
- (f) <sup>F4</sup> .....
- [<sup>F5</sup>(g) an annuity purchased for the purpose of giving effect to rights under a scheme falling within paragraph (a), including an annuity in payment before 6th April 2006, giving effect to rights under any scheme approved—
  - (i) before that date under Chapters 1, 3 or 4 of Part 14 of the Taxes Act; or
  - (ii) any relevant statutory scheme, as defined in section 611 of that Act;]
- (h) any pension arrangements of any description which may be prescribed by regulations made by the Department.

(3) <sup>F6</sup> .....

[<sup>F7</sup>(4) Paragraph (5) applies if—

- (a) at the time when a bankruptcy order is made against a person, an appeal against a decision not to register a pension scheme has been made under section 156 of the Finance Act 2004, and
- (b) the decision of the General or Special Commissioners, (see section 156(3) of that Act), is to uphold the decision of Her Majesty's Revenue and Customs not to register the scheme.]
- (5) Any rights of that person under the scheme shall (without any conveyance, assignment or transfer) vest in his trustee in bankruptcy, as part of his estate, immediately on—
- (a) the [<sup>F8</sup>General or Special] Commissioners' decision being made, or
- (b) (if later) the trustee's appointment taking effect or, in the case of the official receiver, his becoming trustee.
- [<sup>F9</sup>(6) Paragraph (7) applies if, at any time after a bankruptcy order is made against a person, Her Majesty's Revenue and Customs give notice—
- (a) withdrawing registration of the pension scheme under section 157 of the Finance Act 2004, and
- (b) the date specified as being that from which de-registration occurs under section 157(4) of that Act (“the de-registration date”), is the date from which the scheme ceases to be a registered pension scheme.]
- (7) Any rights of that person under the scheme or arising by virtue of the arrangements, and any rights of his under any related annuity, shall (without any conveyance, assignment or transfer) vest in his trustee in bankruptcy, as part of his estate, immediately on—
- (a) the giving of the notice, or
- (b) (if later) the trustee's appointment taking effect or, in the case of the official receiver, his becoming trustee.
- (8) In paragraph (7) “related annuity” means an annuity purchased on or after the [<sup>F10</sup>de-registration date] for the purpose of giving effect to rights under the scheme or (as the case may be) to rights arising by virtue of the arrangements.
- (9) Where under paragraph (5) or (7) any rights vest in a person's trustee in bankruptcy, the trustee's title to them has relation back to the commencement of the person's bankruptcy; but where any transaction is entered into by the trustees or managers of the scheme in question—
- (a) in good faith, and
- (b) without notice of the making of the decision mentioned in paragraph (4)(b) or (as the case may be) the giving of the notice mentioned in paragraph (6),
- the trustee in bankruptcy is not in respect of that transaction entitled by virtue of this paragraph to any remedy against them or any person whose title to any property derives from them.
- (10) Without prejudice to Article 73, regulations under paragraph (2)(h) may, in the case of any description of arrangements prescribed by the regulations, make provision corresponding to any provision made by paragraphs (4) to (9).
- (11) In this Article—
- [<sup>F11</sup>(a) “occupational pension scheme” has the meaning given in section 150(5) of the Finance Act 2004;]
- [<sup>F12</sup>(b) “pension scheme” has the meaning given in section 150(1) of the Finance Act 2004 and “registered pension scheme” means a pension scheme registered under section 153 of the Finance Act 2004;]
- (c) “estate”, in relation to a person against whom a bankruptcy order is made, means his estate within the meaning of Article 11 of the Insolvency (Northern Ireland) Order 1989;

(d) “the Taxes Act” means the Income and Corporation Taxes Act 1988.

(12) For the purposes of this Article a person shall be treated as having a right under an approved pension arrangement where—

- (a) he is entitled to a credit under Article 26(1)(b) as against the person responsible for the arrangement (within the meaning of Chapter I of Part V), and
- (b) the person so responsible has not discharged his liability in respect of the credit.

- F1 Art. 12(2)(a) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(a\)\(i\)](#)
- F2 Art. 12(2)(b) omitted (6.4.2006) by virtue of [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(a\)\(ii\)](#)
- F3 Words in art. 12(2)(c) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(a\)\(iii\)](#)
- F4 Art. 12(2)(d)-(f) omitted (6.4.2006) by virtue of [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(a\)\(ii\)](#)
- F5 Art. 12(2)(g) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(a\)\(iv\)](#)
- F6 Art. 12(3) omitted (6.4.2006) by virtue of [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(b\)](#)
- F7 Art. 12(4) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(c\)](#)
- F8 Words in art. 12(5)(a) inserted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(d\)](#)
- F9 Art. 12(6) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(e\)](#)
- F10 Words in art. 12(8) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(f\)](#)
- F11 Art. 12(11)(a) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(g\)\(i\)](#)
- F12 Art. 12(11)(b) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), [art. 16\(3\)\(g\)\(ii\)](#)

**Modifications etc. (not altering text)**

- C3 Art. 12 excluded by [S.R. 1991/364](#), rule 5A.12 (as inserted (30.6.2011) by [Insolvency \(Amendment\) Rules \(Northern Ireland\) 2011 \(S.R. 2011/151\)](#), rule 8, [Sch. 1](#))

**Effect of bankruptcy on pension rights: unapproved arrangements** **N.I.**

13.—(1) The Department may by regulations make provision for or in connection with enabling rights of a person under an unapproved pension arrangement to be excluded, in the event of a bankruptcy order being made against that person, from his estate within the meaning of Article 11 of the [Insolvency \(Northern Ireland\) Order 1989](#).

(2) Regulations under this Article may, in particular, make provision—

- (a) for rights under an unapproved pension arrangement to be excluded from a person's estate—
  - (i) by an order made on his application by a prescribed court, or
  - (ii) in accordance with a qualifying agreement made between him and his trustee in bankruptcy;

- (b) for the court's decision whether to make such an order in relation to a person to be made by reference to—
- (i) future likely needs of him and his family, and
  - (ii) whether any benefits (by way of a pension or otherwise) are likely to be received by virtue of rights of his under other pension arrangements and (if so) the extent to which they appear likely to be adequate for meeting any such needs;
- (c) for the prescribed persons in the case of any pension arrangement to provide a person or his trustee in bankruptcy on request with information reasonably required by that person or trustee for or in connection with the making of such applications and agreements as are mentioned in sub-paragraph (a).
- (3) In this Article—
- “prescribed” means prescribed by regulations under this Article;
- “qualifying agreement” means an agreement entered into in such circumstances, and satisfying such requirements, as may be prescribed;
- “unapproved pension arrangement” means a pension arrangement which—
- (a) is not an approved pension arrangement within the meaning of Article 12, and
  - (b) is of a prescribed description.
- (4) For the purposes of this Article a person shall be treated as having a right under an unapproved pension arrangement where—
- (a) he is entitled to a credit under Article 26(1)(b) as against the person responsible for the arrangement (within the meaning of Chapter I of Part V), and
  - (b) the person so responsible has not discharged his liability in respect of the credit.

**Modifications etc. (not altering text)**

- C4 [Art. 13](#) excluded by [S.R. 1991/364, rule 5A.12](#) (as inserted (30.6.2011) by [Insolvency \(Amendment\) Rules \(Northern Ireland\) 2011 \(S.R. 2011/151\), rule 8, Sch. 1](#))

**No forfeiture on bankruptcy of rights under pension schemes** **N.I.**

14.—(1) In the Pension Schemes Act, after section 155 there shall be inserted—

**“No forfeiture on bankruptcy of rights under personal pension schemes.**

**155A.**—(1) A person's rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.

(2) For the purposes of this section—

- (a) a person shall be treated as having a right under a personal pension scheme where—
  - (i) he is entitled to a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (sharing of rights on divorce etc.),
  - (ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part V of that Order), and
  - (iii) the person so responsible has not discharged his liability in respect of the credit; and
- (b) forfeiture shall be taken to include any manner of deprivation or suspension.”.



(2) In Article 90(2) of the Pensions Order (exceptions to the rule preventing forfeiture of rights under occupational pension schemes), sub-paragraph (b) (which allows forfeiture of such rights by reference to a scheme member's bankruptcy) shall cease to have effect.

### **Excessive pension contributions made by persons who have become bankrupt** **N.I.**

**15.** For Articles 315A to 315C of the Insolvency (Northern Ireland) Order 1989 there shall be substituted—

#### **“Recovery of excessive pension contributions**

**315A.**—(1) Where an individual who is adjudged bankrupt—

- (a) has rights under an approved pension arrangement, or
- (b) has excluded rights under an unapproved pension arrangement,

the trustee of the bankrupt's estate may apply to the High Court for an order under this Article.

(2) If the High Court is satisfied—

- (a) that the rights under the arrangement are to any extent, and whether directly or indirectly, the fruits of relevant contributions, and
- (b) that the making of any of the relevant contributions ( “the excessive contributions”) has unfairly prejudiced the individual's creditors,

the Court may make such order as it thinks fit for restoring the position to what it would have been had the excessive contributions not been made.

(3) Paragraph (4) applies where the High Court is satisfied that the value of the rights under the arrangement is, as a result of rights of the individual under the arrangement or any other pension arrangement having at any time become subject to a debit under Article 26(1)(a) of the Welfare Reform Order (debits giving effect to pension-sharing), less than it would otherwise have been.

(4) Where this paragraph applies—

- (a) any relevant contributions which were represented by the rights which became subject to the debit shall, for the purposes of paragraph (2), be taken to be contributions of which the rights under the arrangement are the fruits, and
- (b) where the relevant contributions represented by the rights under the arrangement (including those so represented by virtue of sub-paragraph (a)) are not all excessive contributions, relevant contributions which are represented by the rights under the arrangement otherwise than by virtue of sub-paragraph (a) shall be treated as excessive contributions before any which are so represented by virtue of that sub-paragraph.

(5) In paragraphs (2) to (4) “relevant contributions” means contributions to the arrangement or any other pension arrangement—

- (a) which the individual has at any time made on his own behalf, or
- (b) which have at any time been made on his behalf.

(6) The High Court shall, in determining whether it is satisfied under paragraph (2)(b), consider in particular—

- (a) whether any of the contributions were made for the purpose of putting assets beyond the reach of the individual's creditors or any of them, and
- (b) whether the total amount of any contributions—

- (i) made by or on behalf of the individual to pension arrangements, and
- (ii) represented (whether directly or indirectly) by rights under approved pension arrangements or excluded rights under unapproved pension arrangements,

is an amount which is excessive in view of the individual's circumstances when those contributions were made.

(7) For the purposes of this Article and Articles 315B and 315C ( “the recovery provisions”), rights of an individual under an unapproved pension arrangement are excluded rights if they are rights which are excluded from his estate by virtue of regulations under Article 13 of the Welfare Reform Order.

(8) In the recovery provisions—

“approved pension arrangement” has the same meaning as in Article 12 of the Welfare Reform Order,

“unapproved pension arrangement” has the same meaning as in Article 13 of that Order.

#### **Orders under Article 315A**

**315B.**—(1) Without prejudice to the generality of Article 315A(2), an order under Article 315A may include provision—

- (a) requiring the person responsible for the arrangement to pay an amount to the individual's trustee in bankruptcy,
- (b) adjusting the liabilities of the arrangement in respect of the individual,
- (c) adjusting any liabilities of the arrangement in respect of any other person that derive, directly or indirectly, from rights of the individual under the arrangement,
- (d) for the recovery by the person responsible for the arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the bankrupt's case with any requirement under Article 315C(1) or in giving effect to the order.

(2) In paragraph (1), references to adjusting the liabilities of the arrangement in respect of a person include (in particular) reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.

(3) In paragraph (1)(c), the reference to liabilities of the arrangement does not include liabilities in respect of a person which result from giving effect to an order or provision falling within Article 25(1) of the Welfare Reform Order (pension sharing orders and agreements).

(4) The maximum amount which the person responsible for an arrangement may be required to pay by an order under Article 315A is the lesser of—

- (a) the amount of the excessive contributions, and
- (b) the value of the individual's rights under the arrangement (if the arrangement is an approved pension arrangement) or of his excluded rights under the arrangement (if the arrangement is an unapproved pension arrangement).

(5) An order under Article 315A which requires the person responsible for an arrangement to pay an amount ( “the restoration amount”) to the individual's trustee in bankruptcy must provide for the liabilities of the arrangement to be correspondingly reduced.

(6) For the purposes of paragraph (5), liabilities are correspondingly reduced if the difference between—

- (a) the amount of the liabilities immediately before the reduction, and
- (b) the amount of the liabilities immediately after the reduction,

is equal to the restoration amount.

(7) An order under Article 315A in respect of an arrangement—

- (a) shall be binding on the person responsible for the arrangement, and
- (b) overrides provisions of the arrangement to the extent that they conflict with the provisions of the order.

### **Orders under Article 315A: supplementary**

**315C.**—(1) The person responsible for—

- (a) an approved pension arrangement under which a bankrupt has rights,
- (b) an unapproved pension arrangement under which a bankrupt has excluded rights,  
or
- (c) a pension arrangement under which a bankrupt has at any time had rights,

shall, on the bankrupt's trustee in bankruptcy making a written request, provide the trustee with such information about the arrangement and rights as the trustee may reasonably require for, or in connection with, the making of applications under Article 315A.

(2) Nothing in—

- (a) any provision of section 155 of the Pension Schemes (Northern Ireland) Act 1993 or Article 89 of the Pensions (Northern Ireland) Order 1995 (which prevent assignment and the making of orders that restrain a person from receiving anything which he is prevented from assigning),
- (b) any statutory provision (whether passed or made before or after the making of the Welfare Reform Order) corresponding to any of the provisions mentioned in sub-paragraph (a), or
- (c) any provision of the arrangement in question corresponding to any of those provisions,

applies to the High Court exercising its powers under Article 315A.

(3) Where any sum is required by an order under Article 315A to be paid to the trustee in bankruptcy, that sum shall be comprised in the bankrupt's estate.

(4) Regulations may, for the purposes of the recovery provisions, make provision about the calculation and verification of—

- (a) any such value as is mentioned in Article 315B(4)(b);
- (b) any such amounts as are mentioned in Article 315B(6)(a) and (b).

(5) The power conferred by paragraph (4) includes power to provide for calculation or verification—

- (a) in such manner as may, in the particular case, be approved by a prescribed person;  
or
- (b) in accordance with guidance—
  - (i) from time to time prepared by a prescribed person, and
  - (ii) approved by the Department.

- (6) References in the recovery provisions to the person responsible for a pension arrangement are to—
  - (a) the trustees, managers or provider of the arrangement, or
  - (b) the person having functions in relation to the arrangement corresponding to those of a trustee, manager or provider.
- (7) In this Article and Articles 315A and 315B—
  - “the Department” means the Department of Health and Social Services;
  - “prescribed” means prescribed by regulations;
  - “the recovery provisions” means this Article and Articles 315A and 315B;
  - “regulations” means regulations made by the Department;
  - “the Welfare Reform Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999.
- (8) Regulations under the recovery provisions may contain such incidental, supplemental and transitional provisions as appear to the Department necessary or expedient.
- (9) Regulations under the recovery provisions shall be subject to negative resolution.”.

*Miscellaneous*

**Compensating occupational pension schemes** N.I.

**16.** <sup>F13</sup> .....

**F13** Art. 16 repealed (1.9.2005) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 291, **Sch. 11 para. 1**; S.R. 2005/321, **art. 2(16)**, Sch. Pt. 3

*Article 17—Amendments*

**Changes to legislation:**

There are currently no known outstanding effects for the The Welfare Reform and Pensions (Northern Ireland) Order 1999, PART III.