



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART VIII

#### RELATIONSHIP BETWEEN REQUIREMENTS AND SCHEME RULES

#### 125 Overriding requirements.

- (1) Subject to subsection (2), the provisions of Chapters II, III<sup>F1</sup>, IV and V] of Part IV [<sup>F2</sup>Chapters I and II of Part IVA,], <sup>F3</sup> . . . section 106(1) <sup>F3</sup> . . . and any regulations made <sup>F3</sup> . . . under [<sup>F4</sup>any of those Chapters or] section 109 <sup>F3</sup> . . . override any provision of a scheme to which they apply to the extent that it conflicts with them.
- (2) Chapter II of Part IV (as it applies to occupational pension schemes), [<sup>F5</sup>and Chapter III of that Part] do not override a protected provision of a scheme <sup>F6</sup> . . .
- (3) In subsection (2) “protected provision” means—
  - <sup>F7</sup>(a) . . . . .
  - <sup>F8</sup>(b) . . . . .
  - (c) any provision of a scheme which is included in it for the purpose of effecting a transfer of rights or liabilities authorised by regulations under section 16(1);
  - (d) any provision of a scheme to the extent that it deals with commutation, suspension or forfeiture of the whole or part of a pension; and
  - (e) any provision of a scheme whereby, as respects so much of a [<sup>F9</sup>widow's, widower's or surviving civil partner's] pension as exceeds the guaranteed minimum pension—
    - (i) no pension or a pension at a reduced rate is payable if the earner and the [<sup>F10</sup>widow, widower or surviving civil partner married or, as the case may be, formed a civil partnership] not more than six months before the earner's death;

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- (ii) the whole or any part of the pension is not paid to the [F11widow, widower or surviving civil partner], but instead comparable benefits are provided for one or more dependants of the deceased earner; or
  - (iii) no pension, or a pension at a reduced rate, is payable to the [F11widow, widower or surviving civil partner] (or, where a provision such as is mentioned in sub-paragraph (ii) operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner.
- (4) For the purposes of the application of Chapter II of Part IV to schemes which are not contracted-out, subsection (3) shall have effect with the omission—
- (a) from paragraph (c), of the words from “authorised” to the end; and
  - (b) from paragraph (e), of the words from “as respects” to “guaranteed minimum pension”.

#### Textual Amendments

- F1** Words in s. 125(1) substituted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), [Sch. 10 para. 17\(a\)](#); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F2** Words in s. 125(1) inserted (1.12.2000) by [S.I. 1999/3147 \(N.I. 11\)](#), art. 74, [Sch. 9 para. 28\(2\)](#); S.R. 2000/133, art. 2(3), [Sch. Pt. IV](#)
- F3** Words in s. 125(1) repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), arts. 119, 168, Sch. 1 para. 23(a), [Sch. 5 Pt. I](#) (with art. 118(5)(6)); S.R. 1997/192, [art. 2\(b\)](#)
- F4** Words in s. 125(1) inserted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), [Sch. 10 para. 17\(b\)](#); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F5** Words in s. 125(2) substituted (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), art. 119, [Sch. 1 para. 23\(b\)](#) (with art. 118(5)(6)); S.R. 1997/192, [art. 2\(b\)](#)
- F6** Words in s. 125(2) repealed (6.4.2005) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), [Sch. 11](#); S.R. 2005/166, art. 2(6), Sch. 1
- F7** Words in s. 125(3)(a) repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), arts. 119, 168, Sch. 1 para. 23(c), [Sch. 5 Pt. I](#) (with art. 118(5)(6)); S.R. 1997/192, [art. 2\(b\)](#)
- F8** S. 125(3)(b) repealed (6.4.2005) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), [Sch. 11](#); S.R. 2005/166, art. 2(6), Sch. 1
- F9** Words in s. 125(3)(e) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), [Sch. para. 16\(a\)](#)
- F10** Words in s. 125(3)(e)(i) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), [Sch. para. 16\(b\)](#)
- F11** Words in s. 125(3)(e)(ii)(iii) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order \(Northern Ireland\) 2005 \(S.R. 2005/434\)](#), art. 1(3), [Sch. para. 16\(c\)](#)

## 126 Extra-statutory benefits.

It is hereby declared that—

- (a) nothing in Part III precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes and, in particular, nothing in section 12(3) is to be taken as preventing the scheme from providing increases above the alternative minima there mentioned; and

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- (b) nothing in the provisions of Chapter II<sup>F12</sup>, IV or V] of Part IV precludes a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.

**Textual Amendments**

- F12** Words in s. 126(b) substituted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), [art. 1\(2\)](#), [Sch. 10 para. 18](#); [S.R. 2006/95](#), [art. 2\(c\)](#), [Sch. Pt. 3](#)

**127 Relationship of preservation requirements and scheme rules.**

It is hereby declared that nothing in Chapter I of Part IV—

- (a) applies with direct effect to any scheme, or to the rights or liabilities of any person in, under or by virtue of a scheme; or
- (b) precludes a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in that Chapter) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.

**128 Duty to bring schemes into conformity with indirectly-applying requirements.**

Where the rules of an occupational pension scheme to which the preservation requirements,<sup>F13</sup> . . .<sup>F14</sup> . . . apply do not comply with those requirements it shall be the responsibility of—

- (a) the trustees and managers of the scheme; or
- (b) in the case of a public service pension scheme, the Minister of the Crown, government department or other person or body concerned with its administration,

to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

**Textual Amendments**

- F13** Words in s. 128 repealed (1.1.1996) by [S.I. 1995/3213 \(N.I. 22\)](#), [arts. 119, 168](#), [Sch. 1 para. 24](#), [Sch. 5 Pt. I](#) (with [art. 118\(5\)\(6\)](#)); [S.R. 1995/477](#), [art. 2\(b\)](#), [Sch. Pt. II](#)
- F14** Words in s. 128 repealed (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), [arts. 1\(2\), 244\(2\)](#), [Sch. 11](#) (with [art. 285\(5\)](#)); [S.R. 2006/95](#), [art. 2\(c\)](#), [Sch. Pt. 3](#)

<sup>F15</sup>**129** .....

**Textual Amendments**

- F15** Ss. 129-131 repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [arts. 147, 168](#), [Sch. 3 para. 54](#), [Sch. 5 Pt. III](#); [S.R. 1997/192](#), [art. 2\(b\)](#)

<sup>F16</sup>**130** .....

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**Textual Amendments**

**F16** Ss. 129-131 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 54, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

<sup>F17</sup> **131** .....

**Textual Amendments**

**F17** Ss. 129-131 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 54, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

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