
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Modification of schemes

[^{F1}The subsisting rights provisions

67.—(1) The subsisting rights provisions apply to any power conferred on any person by an occupational pension scheme to modify the scheme other than a power conferred by—

- (a) a public service pension scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.

[
^{F2}(1A) Any exercise of such a power to make a prohibited modification is void.]

(2) Any exercise of such a power to make a regulated modification is voidable in accordance with Article 67G unless the following are satisfied in respect of the modification—

- (a) in the case of each affected member—
 - (i) if the modification is a protected modification, [^{F3}or the scheme is a collective money purchase scheme within the meaning of Part 2 of the Pension Schemes Act 2021,] the consent requirements (see Article 67B),
 - (ii) [^{F4}if it is not][^{F4}if head (i) does not apply], either the consent requirements or the actuarial equivalence requirements (see Article 67C),
- (b) the trustee approval requirement (see Article 67E), and
- (c) the reporting requirement (see Article 67F).

(3) The subsisting rights provisions do not apply in relation to the exercise of a power—

- (a) for a purpose connected with debits under Article 26(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, [^{F5}or]
- (b) [^{F5}in a prescribed manner.]

[
^{F6}(3A) Regulations may provide for cases in which the subsisting rights provisions do not apply.]

(4) References in this Article and Articles 67A to 67I to “the subsisting rights provisions” are to this Article and those Articles.

(5) Paragraph (6) applies in relation to the exercise of a power to which the subsisting rights provisions apply to make a regulated modification where a member of the scheme dies before the requirements mentioned in paragraph (2), so far as they apply in his case, have been complied with in respect of the modification if—

Changes to legislation: *The Pensions (Northern Ireland) Order 1995, Section 67 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) before he died he had given his consent to the modification in accordance with Article 67B(4)(b), or
- (b) before he died, or before the trustees of the scheme had become aware that he had died, the trustees had complied with Article 67C(4)(a), (b) and (d) in respect of the modification in his case.
- (6) Any of the requirements mentioned in paragraph (2), as it applies in respect of the modification—
- (a) which is satisfied in the case of the member, or
- (b) which would have been satisfied in his case had he not died before it was satisfied,
- is to be taken to be satisfied in the case of any survivor of the member in respect of the modification.]

- F1** Arts. 67, 67A-67I substituted (1.11.2005 for certain purposes, otherwise 6.4.2006) for art. 67 by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), **arts. 1(2)**, 239; S.R. 2005/411, art. 2(5), **Sch. Pt. 2**
- F2** Art. 67(1A) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), **ss. 75(2)(a)**, 131(2)(a)(3)(a); S.R. 2022/197, art. 3(a)
- F3** Words in art. 67(2)(a)(i) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), **ss. 75(2)(b)**, 131(2)(a)(3)(a); S.R. 2022/197, art. 3(a)
- F4** Words in art. 67(2)(a)(ii) substituted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), **ss. 75(2)(c)**, 131(2)(a)(3)(a); S.R. 2022/197, art. 3(a)
- F5** Art. 67(3)(b) and word omitted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by virtue of Pension Schemes Act 2021 (c. 1), **ss. 75(2)(d)**, 131(2)(a)(3)(a); S.R. 2022/197, art. 3(a)
- F6** Art. 67(3A) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), **ss. 75(2)(e)**, 131(2)(a)(3)(a); S.R. 2022/197, art. 3(a)

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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](#)
- art. 67(3)(b) and preceding word omitted by [2016 c. 1 \(N.I.\) s. 45\(2\)\(a\)](#)
- art. 67(3A) inserted by [2016 c. 1 \(N.I.\) s. 45\(2\)\(b\)](#)

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\(2\)](#)