
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Winding up

Excess assets on winding up

- 76.**—(1) This Article applies to a trust scheme in any circumstances if—
- (a) (a) it is an exempt approved scheme, within the meaning given by section 592(1) of the Taxes Act 1988⁽¹⁾,
 - (b) the scheme is being wound up, and
 - (c) in those circumstances, power is conferred on the employer or the trustees to distribute assets to the employer on a winding up.
- (2) The power referred to in paragraph (1)(c) cannot be exercised unless the requirements of paragraphs (3) and (in prescribed circumstances) (4), and any prescribed requirements, are satisfied.
- (3) The requirements of this paragraph are that—
- (a) the liabilities of the scheme have been fully discharged,
 - (b) where there is any power under the scheme, after the discharge of those liabilities, to distribute assets to any person other than the employer, the power has been exercised or a decision has been made not to exercise it,
 - (c) the annual rates of the pensions under the scheme which commence or have commenced are increased by the appropriate percentage, and
 - (d) notice has been given in accordance with prescribed requirements to the members of the scheme of the proposal to exercise the power.
- (4) The requirements of this paragraph are that the Authority are of the opinion that—
- (a) any requirements prescribed by virtue of paragraph (2) are satisfied, and
 - (b) the requirements of paragraph (3) are satisfied.
- (5) In paragraph (3)—
- (a) “annual rate” and “appropriate percentage” have the same meaning as in Article 54, and
 - (b) “pension” does not include—
 - (i) any guaranteed minimum pension (as defined in section 4(2) of the Pension Schemes Act) or any increase in such a pension under section 105 of that Act, or
 - (ii) any money purchase benefit (as defined in section 176(1) of that Act).

(6) If, where this Article applies to any trust scheme, the trustees purport to exercise the power referred to in paragraph (1)(c) without complying with the requirements of this Article, Articles 3 and 10 apply to any of them who have failed to take all such steps as are reasonable to secure compliance.

(7) If, where this Article applies to any trust scheme, any person other than the trustees purports to exercise the power referred to in paragraph (1)(c) without complying with the requirements of this Article, Article 10 applies to him.

(8) Regulations may provide that, in prescribed circumstances, this Article does not apply to schemes falling within a prescribed class or description, or applies to them with prescribed modifications.