
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

The compensation provisions

Cases where compensation provisions apply

79.—(1) Subject to paragraph (2), this Article applies to an application for compensation under Article 80 in respect of an occupational pension scheme if all the following conditions are met—

- (a) the scheme is a trust scheme,
- (b) the employer is insolvent,
- (c) the value of the assets of the scheme has been reduced, and there are reasonable grounds for believing that the reduction was attributable to an act or omission constituting a prescribed offence,
- (d) in the case of a salary related trust scheme, immediately before the date of the application the value of the assets of the scheme is less than 90 per cent. of the amount of the liabilities of the scheme, and
- (e) it is reasonable in all the circumstances that the members of the scheme should be assisted by the Compensation Board paying to the trustees of the scheme, out of funds for the time being held by them, an amount determined in accordance with the compensation provisions.

(2) Paragraph (1) does not apply in respect of a trust scheme falling within a prescribed class or description; and paragraph (1)(c) applies only to reductions in value since the appointed day.

(3) In this Part, “the compensation provisions” means the provisions of this Article and Articles 80 to 83; and in the compensation provisions as they relate to a trust scheme—

- (a) “the application date” means the date of the application for compensation under Article 80,
- (b) “the appointed day” means the day appointed under Article 1 for the commencement of this Article,
- (c) “the insolvency date” means the date on which the employer became insolvent,
- (d) “the settlement date” means the date determined by the Compensation Board, after consulting the trustees, to be the date after which further recoveries of value are unlikely to be obtained without disproportionate cost or within a reasonable time,
- (e) “the shortfall at the application date” means the amount of the reduction falling within paragraph (1)(c) or (if there was more than one such reduction) the aggregate of the reductions, being the amount or aggregate immediately before the application date,

- (f) “recovery of value” means any increase in the value of the assets of the scheme, being an increase attributable to any payment received (otherwise than from the Compensation Board) by the trustees of the scheme in respect of any act or omission—
- (i) which there are reasonable grounds for believing constituted a prescribed offence, and
 - (ii) to which any reduction in value falling within paragraph (1)(c) was attributable.
- (4) It is for the Compensation Board to determine whether anything received by the trustees of the scheme is to be treated as a payment received for any such act or omission as is referred to in paragraph (3)(f); and in this Article “payment” includes any money or money’s worth.
- (5) Where this Article applies to an application for compensation under Article 80, the trustees must obtain any recoveries of value, to the extent that they may do so without disproportionate cost and within a reasonable time.
- (6) If paragraph (5) is not complied with, Article 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance.
- (7) Article 56(3) and (4) applies for the purposes of the compensation provisions as it applies for the purposes of Articles 56 to 61.
- (8) Section 119 of the Pension Schemes Act (meaning of insolvency) applies for the purposes of the compensation provisions as it applies for the purposes of Chapter II of Part VII of that Act (unpaid scheme contributions).