
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Restrictions on schemes during the assessment period

Payment of scheme benefits

122.—(1) Paragraphs (2) and (3) apply where there is an assessment period in relation to an eligible scheme.

(2) The benefits payable to or in respect of any member under the scheme rules during the assessment period must be reduced to the extent necessary to ensure that they do not exceed the compensation which would be payable to or in respect of the member in accordance with this Chapter if—

- (a) ^{F1} the Board assumed responsibility for the scheme in accordance with this Chapter, and
- (b) the assessment date referred to in Schedule 6 were the date on which the assessment period began.

(3) ^{F1} But where, on the commencement of the assessment period—

- (a) a member's pensionable service terminates, and
- (b) he becomes a person to whom Chapter 5 of Part IV of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds) applies,

no benefits are payable to or in respect of him under the scheme during the assessment period.

(4) Article 134(5) (retrospective accrual of benefits in certain circumstances) is to be disregarded for the purposes of determining whether a member falls within sub-paragraph (a) or (b) of paragraph (3).

(5) Nothing in paragraph (3) prevents the payment of benefits attributable (directly or indirectly) to a pension credit during the assessment period in accordance with paragraph (2).

(6) Where at any time during the assessment period the scheme is being wound up, subject to any reduction required under paragraph (2) and to paragraph (3), the benefits payable to or in respect of any member under the scheme rules during that period are the benefits that would have been so payable in the absence of the winding up of the scheme.

(7) Paragraphs (2), (3) and (6) are subject to Articles 134(1) to (3) and 138(13) (which provide for the adjustment of amounts paid during an assessment period when that period ends other than as a result of the Board assuming responsibility for the scheme).

Status: Point in time view as at 03/03/2015. This version of this provision has been superseded.

Changes to legislation: The Pensions (Northern Ireland) Order 2005, Section 122 is up to date with all changes known to be in force on or before 26 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)

(8) For the purposes of paragraphs (2) and (3) the trustees or managers of the scheme may take such steps as they consider appropriate (including steps adjusting future payments under the scheme rules) to recover any overpayment or pay any shortfall.

(9) Article 10 of the 1995 Order (civil penalties) applies to a trustee or manager of a scheme who fails to take all reasonable steps to secure compliance with paragraphs (2) and (3).

[^{F2}(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of paragraph (2A) as being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.

(9B) Regulations may create exceptions to paragraph (2A).]

(10) Regulations may provide that, where there is an assessment period in relation to an eligible scheme—

- (a) in such circumstances as may be prescribed paragraph (2) does not operate to require the reduction of benefits payable to or in respect of any member;
- (b) the commencement of a member's pension or payment of a member's lump sum or other benefits is, in such circumstances and on such terms and conditions as may be prescribed, to be postponed for the whole or any part of the assessment period for which he continues in employment after attaining normal pension age.

(11) For the purposes of paragraph (10)—

- (a) “normal pension age”, in relation to an eligible scheme and any pension or other benefit under it, means the age specified in the scheme rules as the earliest age at which the pension or other benefit becomes payable without actuarial adjustment (disregarding any scheme rule making special provision as to early payment on the grounds of ill health), and
- (b) where different ages are so specified in relation to different parts of a pension or other benefit—
 - (i) paragraph (10) has effect as if those parts were separate pensions or, as the case may be, benefits, and
 - (ii) in relation to a part of a pension or other benefit, the reference in that paragraph to normal pension age is to be read as a reference to the age specified in the scheme rules as the earliest age at which that part becomes so payable.

(12) Regulations may provide that, in prescribed circumstances, where—

- (a) ^{F1} a member of the scheme died before the commencement of the assessment period, and
- (b) during the assessment period, a person becomes entitled under the scheme rules to a benefit of a prescribed description in respect of the member,

the benefit, or any part of it, is, for the purposes of paragraph (2), to be treated as having become payable before the commencement of the assessment period.

(13) Nothing in paragraph (2) or (3) applies to money purchase benefits.

F1 mod. by SR 2005/55

F2 [Art. 122\(9A\)\(9B\)](#) inserted (3.3.2015 for specified purposes) by [Pension Schemes Act 2015 \(c. 8\)](#), **ss. 65(10)**, [89\(1\)\(b\)](#), [\(3\)\(b\)](#) (with [s. 87](#))

Commencement Information

II [Art. 122\(10\)\(a\)](#) in operation at 25.6.2014 by [S.R. 2014/183](#), **art. 2**

Status:

Point in time view as at 03/03/2015. This version of this provision has been superseded.

Changes to legislation:

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