
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 381

**The Occupational Pension Schemes (Fraud
Compensation Payments and Miscellaneous
Amendments) Regulations (Northern Ireland) 2005**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

(2) In these Regulations, any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 2005 bearing that number.

(3) In these Regulations—

“the 1988 Act” means the Income and Corporation Taxes Act 1988⁽¹⁾;

“the 2004 Act” means the Finance Act 2004⁽²⁾;

“accrued rights” has the meaning given in Article 121(2) of the 1995 Order;

“application date” means the date on which an application was made in accordance with the requirements of Article 165(1)(d) and (e);

“approved scheme” means a scheme which is approved or was formerly approved under section 590 or 591 of the 1988 Act⁽³⁾ (conditions for approval of retirement benefit schemes and discretionary approval respectively), or in respect of which an application for such approval has been duly made and which has not yet been determined;

“assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;

“beneficiary” means a person, other than a member of the scheme, who is entitled to the payment of benefits under the scheme;

“ear-marked scheme” means a scheme—

- (a) under which all of the benefits, other than death benefits, are money purchase benefits;
- (b) all of the benefits are secured by one or more policies of insurance, or annuity contracts, and
- (c) such policies, or contracts, are specifically allocated to the provision of benefits for an individual member, or any other person, who has a right to benefits under the scheme;

(1) 1988 c. 1

(2) 2004 c. 12

(3) Section 590 was amended by paragraph 18 of Schedule 3 to the Finance Act 1988 (c. 39), paragraph 3 of Schedule 6 and Part IV of Schedule 17 to the Finance Act 1989 (c. 26), sections 34 and 36(2) of, and Part V of Schedule 19 to, the Finance Act 1991 (c. 31) and paragraphs 2 and 18(1) and (3) of Schedule 10 to the Finance Act 1999 (c. 16) and section 591 was amended by paragraph 6 of Schedule 13 to the Finance Act 1988, section 107 of, and Part V of Schedule 26 to, the Finance Act 1994 (c. 9), sections 59(2) and 60(1) of the Finance Act 1995 (c. 4) and paragraphs (3) and 18(1) and (3) of Schedule 10 to the Finance Act 1999. Sections 590 and 591 are repealed by Part 3 of Schedule 42 to the Finance Act 2004 from 6th April 2006

“the Entry Rules Regulations” means the Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005⁽⁴⁾;

“fraud compensation provisions” means Articles 165 to 169;

“guaranteed minimum pension” has the meaning given in section 4(2) of the Pension Schemes Act⁽⁵⁾;

“the loss” means the reduction falling within Article 165(1)(b);

“the Multi-employer Regulations” means the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005⁽⁶⁾;

“multi-employer scheme” means a scheme in relation to which there is more than one employer;

“normal pension age” has the meaning given by section 175 of the Pension Schemes Act;

“partially guaranteed scheme” means an eligible scheme in respect of which a relevant public authority has—

- (a) given a guarantee in relation to—
 - (i) any part of the scheme;
 - (ii) any benefits payable under the scheme rules, or
 - (iii) any members of the scheme, or
- (b) made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet any part of its liabilities;

“PPF valuation” means a scheme valuation obtained under Article 127;

“public body” means a government department or any non-departmental public body established by a statutory provision to perform functions conferred on it under that statutory provision or any other statutory provision;

“registered pension scheme” has the meaning given in section 150(2) of the 2004 Act;

“relevant benefits” has the meaning given in section 612(1) of the 1988 Act;

“relevant insurer” means, in relation to an annuity contract or policy of insurance under which scheme benefits are or were secured, the person with whom the contract is made;

“relevant public authority” has the meaning given in Article 280(4);

“relevant statutory scheme” has the meaning given in section 611A of the 1988 Act⁽⁷⁾;

“scheme” means an occupational pension scheme;

“segregated part” means in relation to—

- (a) a non-segregated scheme, a part of the scheme which is created when the rules of the scheme require the trustees or managers, in circumstances where an employer in relation to the scheme ceases to participate in the scheme, to segregate such part of the assets of the scheme as is attributable to the liabilities of the scheme to provide pensions or other benefits to or in respect of the pensionable service of members of the scheme by reference to that employer;
- (b) a multi-employer section of a segregated scheme, a part of the section which is created when the rules of the scheme relating to that section require the trustees or managers

(4) S.R. 2005 No. 126; relevant amending regulations are S.R. 2005 No. 364

(5) Section 4(2) was amended by paragraph 16(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 94 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(6) S.R. 2005 No. 91; relevant amending regulations are S.R. 2005 No. 357

(7) Section 611A was inserted by paragraph 15 of Schedule 6 to, the Finance Act 1989 and amended by paragraph 5 of Schedule 5 to the Finance Act 1999. Section 611A is repealed by Part 3 of Schedule 42 to the Finance Act 2004 from 6th April 2006

of the section, in circumstances where an employer in relation to the section ceases to participate in the scheme, to segregate such part of the assets of the section as is attributable to the liabilities of the section to provide pensions or other benefits to or in respect of the pensionable service of members of the section by reference to that employer;

“segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section, and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section,

and non-segregated scheme shall be read accordingly;

“stakeholder pension scheme” means a stakeholder pension scheme within the meaning of Article 3 of the 1999 Order which is established under a trust;

“unsecured part” means any part of a partially guaranteed scheme—

- (a) in respect of which no guarantee has been given by a relevant public authority, and
- (b) which relates to benefits payable under the scheme in respect of which—
 - (i) no such guarantee has been given, and
 - (ii) no other arrangements as are mentioned in Article 280(3)(b) have been made.

(4) In these Regulations “employer”, in relation to—

- (a) a scheme which is not a multi-employer scheme, or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it.

(5) In these Regulations “employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under Article 75 of the 1995 Order⁽⁸⁾ (deficiencies in the assets) became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the

(8) Article 75 was amended by Article 248 of the Pensions (Northern Ireland) Order 2005

- value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
- (i) condition A is that a debt under Article 75 of the 1995 Order became due from that employer and the full amount of the debt has been paid;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt, and
 - (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due.