
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART VI

**OCCUPATIONAL AND PERSONAL PENSION
SCHEMES: MISCELLANEOUS PROVISIONS**

Restrictions on payment into occupational pension schemes

UK-based scheme to be trust with effective rules

229.—(1) Paragraphs (2) and (3) apply to an occupational pension scheme that has its main administration in the United Kingdom.

(2) If the scheme is not established under irrevocable trusts, the trustees or managers of the scheme must secure that no funding payment is accepted.

(3) If the rules stipulating—

- (a) the benefits under the scheme, and
- (b) any conditions subject to which benefits under the scheme accrue,

are not in force, or if those rules are not set out in writing, the trustees or managers of the scheme must secure that no funding payment is accepted.

(4) Paragraph (2) or (3) does not apply to an occupational pension scheme if it is a prescribed scheme or a scheme of a prescribed description.

(5) Article 10 of the 1995 Order (civil penalties) applies to a trustee or manager of an occupational pension scheme that has its main administration in the United Kingdom if—

- (a) paragraph (2) or (3) requires the trustees or managers of the scheme to secure that no funding payment is accepted,
- (b) a funding payment is accepted, and
- (c) the trustee or manager has failed to take all reasonable steps to secure that no funding payment is accepted.

(6) In this Article “funding payment”, in relation to a scheme, means a payment made to the scheme to fund benefits for, or in respect of, any or all of the members.

Non-European scheme to be trust with UK-resident trustee

230.—(1) Paragraphs (2) and (3) apply to an occupational pension scheme that has its main administration outside the member States.

(2) An employer based in any part of the United Kingdom may cause a contribution to be paid to the scheme in respect of an employee (whether or not employed in the United Kingdom) only if the conditions in paragraph (4) are satisfied at the time of payment.

(3) An employer based outside the United Kingdom may cause a contribution to be paid to the scheme in respect of an employee employed in the United Kingdom only if the conditions in paragraph (4) are satisfied at the time of payment.

(4) Those conditions are—

- (a) that the scheme is established under irrevocable trusts, and
- (b) that a trustee of the scheme is resident in the United Kingdom.

(5) Paragraph (2) or (3) does not apply to an occupational pension scheme if it is a prescribed scheme or a scheme of a prescribed description.

(6) Article 10 of the 1995 Order (civil penalties) applies to an employer who causes a contribution to be paid to an occupational pension scheme that has its main administration outside the member States if—

- (a) paragraph (2) or (3) applies in relation to the payment of the contribution,
- (b) the conditions in paragraph (4) are not satisfied at the time of payment, and
- (c) the employer does not have a reasonable excuse for causing payment to occur at a time when those conditions are not satisfied.

(7) In this Article “based”—

- (a) in relation to an employer who is a body corporate, means incorporated, and
- (b) in relation to any other employer, means resident.

Representative of non-European scheme to be treated as trustee

231.—(1) In the case of an occupational pension scheme that has its main administration outside the member States, a reference in pensions legislation to the trustees, or a trustee, of the scheme includes a person who is for the time being appointed by the trustees of the scheme to be a representative of the scheme for the purposes of this Article.

(2) Paragraph (1) does not apply to a prescribed reference.

(3) In paragraph (1) “pensions legislation” means any statutory provision contained in or made by virtue of—

- (a) the Pension Schemes Act,
- (b) the 1995 Order,
- (c) Parts II to V of the 1999 Order, or
- (d) this Order.