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Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Avoidance of certain transactions and provisions

155 Inalienability of guaranteed minimum pension and protected rights payments.

(1) Where—

- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme or to payments giving effect to protected rights under such a scheme; and
- (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;

then—

- (i) every assignment of or charge on that pension or those payments, and
 - (ii) every agreement to assign or charge that pension or those payments,
- shall be void.

(2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 15(4)(b).

(3) Subsection (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

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- (4) Every assignment of or charge on and every agreement to assign or charge protected rights under a personal pension scheme or payments giving effect to such protected rights shall be void.

[^{F1}(4A) Where a person—

- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
 - (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),
- no order shall be made by any court or the Enforcement of Judgments Office the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by either of those subsections.

(4B) Subsection (4A) does not prevent the making of an attachment of earnings order under the Judgments Enforcement (Northern Ireland) Order 1981.]

(5) On the bankruptcy of a person who—

- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
 - (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),
- nothing shall pass to any trustee or other person acting on behalf of his creditors the assignment of which is or would be made void by either of those subsections.

Textual Amendments

F1 S. 155(4A)(4B) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 119, **Sch. 1 para. 33** (with art. 118(5)(6)); S.R. 1997/192, **art. 2(b)**

Modifications etc. (not altering text)

- C1** S. 155 excluded (1.12.1999 for certain purposes and otherwise *prosp.*) by S.I. 1989/19 (N.I.), art. 315C(2)(a) (as amended (1.12.1999 for certain purposes and otherwise *prosp.*) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a), 15** (with transitional provisions in art. 75(1)))
 S. 155 excluded (*prosp.*) by S.I. 1989/19 (N.I.), art. 315F(5)(a) (as amended (*prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(2), 74, **Sch. 9 para. 54**)
- C2** S. 155(4) excluded (1.8.1996) by S.I. 1995/3213 (N.I. 22), **art. 162(5)(a)**; S.R. 1996/284, **art. 3(b)**
 S. 155(4) excluded (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a), 41(a)**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**
- C3** S. 155(4A) excluded (1.8.1996) by S.I. 1995/3213 (N.I. 22), **art. 162(5)(a)**; S.R. 1996/284, **art. 3(b)**
 S. 155(4A) excluded (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a), 41(a)**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**

VALID FROM 01/12/1999

[^{F2}155A No forfeiture on bankruptcy of rights under personal pension schemes.

- (1) A person's rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.
- (2) For the purposes of this section—
 - (a) a person shall be treated as having a right under a personal pension scheme where—

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- (i) he is entitled to a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (sharing of rights on divorce etc.),
 - (ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part V of that Order), and
 - (iii) the person so responsible has not discharged his liability in respect of the credit; and
- (b) forfeiture shall be taken to include any manner of deprivation or suspension.]

Textual Amendments

- F2** S. 155A inserted (1.12.1999 for certain purposes and otherwise *prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 14(1) (with transitional provisions in art. 75(1))

156 Terms of contracts of service or schemes restricting choice to be void.

- (1) Subject to such exceptions as may be prescribed—
- (a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member—
 - (i) of a personal or occupational pension scheme,
 - (ii) of a particular personal occupational pension scheme, or
 - (iii) of one or other of a number of particular personal or occupational pension schemes,shall be void; and
 - (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner—
 - (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
 - (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.
- (2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—
- (a) to make contributions to a personal or occupational pension scheme; or
 - (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

157 Provisions excluding Chapter II of Part VII to be void.

Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

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158 Removal of restrictions on friendly societies' pension business.

- (1) The Department may make such regulations as it thinks appropriate for enabling a registered society to conduct group insurance business with a view to the establishment of occupational pension schemes or personal pension schemes.
- (2) The power to make regulations under this section shall extend to enabling registered societies to conduct such business as is mentioned in subsection (1) freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.
- (3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Department considers to be necessary or expedient for achieving the purposes referred to in subsection (1).
- (4) In this section—
 - (a) “the relevant legislation” means the ^{M1}Friendly Societies Act 1974,
 - (b) “registered society” has the same meaning as in that Act, and
 - (c) “group insurance business” has the same meaning as in section 65A(2) of that Act.

Marginal Citations

M1 1974 c. 46.

159 Exemption of certain schemes from rule against perpetuities.

- (1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension scheme at any time when this section applies to it.
- (2) This section applies to—
 - (a) a public service pension scheme;
 - (b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;
 - (c) a personal pension scheme which is an appropriate scheme; and
 - (d) an occupational or personal pension scheme which satisfies prescribed requirements.
- (3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to perpetuities (including, where applicable, section 3(1) of the ^{M2}Perpetuities Act (Northern Ireland) 1966 (“wait and see”)) already require to be treated as void before this section applies to the scheme.
- (4) Regulations under subsection (2)(d) may require a scheme—
 - (a) to contain provisions in any prescribed form, or to any prescribed effect; or
 - (b) to have tax-exemption or tax-approval or to be such a scheme that it may be expected to qualify for tax-exemption or tax-approval.

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- (5) Such regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.
- (6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the [^{F3}Department][^{F4}considers] to be reasonable in the case of a particular scheme.
- (7) If this section ceases to apply to a scheme, trusts created and dispositions made under it or for its purposes shall then again be subject to the rules of law relating to perpetuities as if this section had never applied to it.
- (8) Subsection (7) is without prejudice to any rights which vested while this section applied.
- (9) Regulations may provide for a scheme, whose fund was registered under the ^{M3}Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928 immediately before the repeal of that Act took effect, to retain the benefit of that Act, subject to prescribed conditions and either indefinitely or for a prescribed period.

Textual Amendments

- F3** Word in s. 159 substituted (6.4.1996 for certain purposes only otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, **14(a)**, Table; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F4** Word in s. 159(6) substituted (6.4.1996 for certain purposes only otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, **14(b)**, Table; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192 art. 2(b)

Marginal Citations

- M2** 1966 c. 2 (N.I.).
- M3** 1928 c. 6 (N.I.).

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