



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART VII

#### INSOLVENCY OF EMPLOYERS

#### CHAPTER II

##### PAYMENT BY THE DEPARTMENT OF UNPAID SCHEME CONTRIBUTIONS

#### **123 Transfer to Department of rights and remedies.**

- (1) Where in pursuance of section 120 the Department makes any payment into the resources of an occupational pension scheme or a personal pension scheme in respect of any contributions to the scheme, any rights and remedies in respect of those contributions belonging to the persons competent to act in respect of the scheme shall, on the making of the payment, become rights and remedies of the Department.
- (2) Where—
- (a) the Department makes any such payment as is mentioned in subsection (1); and
  - (b) the sum (or any part of the sum) falling to be paid by the employer on account of the contributions in respect of which the payment is made constitutes a preferential debt within the meaning of the <sup>M1</sup>Insolvency (Northern Ireland) Order 1989 for the purposes of any provision of that Order (including any such provision as applied by an order made under that Order [<sup>F1</sup>or any provision of the Companies Acts (as defined in section 2(1) of the Companies Act 2006)])  
<sup>F2</sup>  
....,

then, without prejudice to the generality of subsection (1), there shall be included among the rights and remedies which become rights and remedies of the Department in

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**Changes to legislation:** *Pension Schemes (Northern Ireland) Act 1993, Section 123 is up to date with all changes known to be in force on or before 23 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)*

accordance with that subsection any right arising under any such provision by reason of the status of that sum (or that part of it) as a preferential or preferred debt.

- (3) In computing for the purposes of any provision referred to in subsection (2)(b) the aggregate amount payable in priority to other creditors of the employer in respect of—
- (a) any claim of the Department to be so paid by virtue of subsection (2); and
  - (b) any claim by the persons competent to act in respect of the scheme,
- any claim falling within paragraph (a) shall be treated as if it were a claim of those persons; but the Department shall be entitled, as against those persons, to be so paid in respect of any such claim of the Department (up to the full amount of the claim) before any payment is made to them in respect of any claim falling within paragraph (b).

#### **Textual Amendments**

- F1** Words in s. 123(2)(b) inserted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 145(2)** (with art. 10)
- F2** Words in s. 123(2)(b) omitted (6.4.2008) by virtue of [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 195(2)** (with arts. 6, 11, 12)

#### **Marginal Citations**

- M1** [S.I. 1989/2405 \(N.I. 19\)](#).

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