



## 2012 CHAPTER 3

### Part 3

#### Occupational Pension Schemes

##### *Miscellaneous*

#### **Payment of surplus to employer: transitional power to amend scheme**

**23.**—(1) Article 228 of the Pensions (Northern Ireland) Order 2005 (payment of surplus to employer: transitional power to amend scheme) is amended as follows.

(2) In paragraph (1) after “scheme” insert—

- “(a) which is one to which Article 37 of the 1995 Order applies, and  
(b)”.

(3) After paragraph (2) insert—

“(2A) But paragraph (2) does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments).”.

(4) In paragraph (3) for “then applied” substitute “ applied immediately before the coming into operation of Article 227 ”.

(5) In paragraph (6)—

(a) after sub-paragraph (a) insert—

- “(aa) may be exercised even if the payments to which it relates are, to any extent, payments to which paragraph (2) does not apply,”;

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*Changes to legislation: There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, Cross Heading: Miscellaneous. (See end of Document for details)*

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- (b) in sub-paragraph (b) for “only be exercised once” substitute “ be exercised, after the coming into operation of section 23 of the Pensions Act (Northern Ireland) 2012, only once (whether or not also exercised before 6 April 2011) ”;
  - (c) in sub-paragraph (c) for “five years after the coming into operation of this Article” substitute “ on 6 April 2016 ”.
- (6) After paragraph (6) insert—
- “(6A) A resolution passed under this Article after the coming into operation of section 23 of the Pensions Act (Northern Ireland) 2012 may amend or revoke a resolution passed under this Article before 6 April 2011.”.
- (7) The amendments made by this section do not affect the continued operation of any resolution passed under Article 228(3) or (4) of the Pensions (Northern Ireland) Order 2005 before 6 April 2011.

### **Contribution notices and financial support directions**

**24.—(1)** Article 34 of the Pensions (Northern Ireland) Order 2005 (contribution notices where avoidance of employer debt) is amended as follows.

(2) In paragraphs (5)(c)(i) and (6)(b)(ii) for “determination by the Regulator to exercise the power to issue” substitute “ giving of a warning notice in respect of ”.

(3) After paragraph (13) add—

“(14) In this Article “a warning notice” means a notice given as mentioned in Article 91(2)(a).”.

(4) Article 39 of the Pensions (Northern Ireland) Order 2005 (financial support directions) is amended as follows.

(5) In paragraph (9) for “determination by the Regulator to exercise the power to issue” substitute “ giving of a warning notice in respect of ”.

(6) After paragraph (11) add—

“(12) In this Article “a warning notice” means a notice given as mentioned in Article 91(2)(a).”.

(7) In Article 91 of the Pensions (Northern Ireland) Order 2005 (exercise of regulatory functions: standard procedure) after paragraph (6) insert—

“(6A) Paragraph (6B) applies in relation to a warning notice given to a person—

- (a) in respect of a contribution notice under Article 34, or
- (b) in respect of a financial support direction under Article 39.

(6B) Regulations may provide that no determination notice in respect of the contribution notice or the financial support direction may be given

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after the end of the prescribed period beginning with the day on which the warning notice is given.”.

**Commencement Information**

**II** S. 24 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(g)

**Technical amendment to Schedule 4 to the Pensions Act (Northern Ireland) 2008**

**25** In Schedule 4 to the Pensions Act (Northern Ireland) 2008 (abolition of contracting-out for defined contribution pension schemes) in paragraph 59(4) for paragraphs (b) and (c) substitute—

- “(b) in the definition of “the percentage for contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
  - (ii) omit paragraph (b) and the preceding “and”;
- (c) in the definition of “the percentage for non-contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
  - (ii) omit paragraph (b) and the preceding “and”.”.

**Technical amendment to section 38(2) of the Pension Schemes (Northern Ireland) Act 1993**

**26.—(1)** In section 38 of the Pension Schemes (Northern Ireland) Act 1993 (alteration of rates of contributions applicable under section 37) in subsection (2) for “paragraph 2(3)” substitute “the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” in paragraph 2(5)”.

(2) After that subsection insert—

“(3) Until paragraph 59(4) of Schedule 4 to the Pensions Act (Northern Ireland) 2008 comes into operation, subsection (2) has effect as if the reference to the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” were a reference to paragraph (a) of either of those definitions.”.

**Changes to legislation:**

There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, Cross Heading: Miscellaneous.