
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Restrictions on schemes during the assessment period

Restrictions on winding up, discharge of liabilities etc.

119.—(1) This Article applies where there is an assessment period in relation to an eligible scheme.

(2) Subject to paragraph (3), the winding up of the scheme must not begin during the assessment period.

(3) Paragraph (2) does not apply to the winding up of the scheme in pursuance of an order by the Regulator under Article 11(3A) of the 1995 Order (Regulator's powers to wind up occupational pension schemes to protect Pension Protection Fund) directing the scheme to be wound up (and Article 198 makes provision for the backdating of the winding up).

(4) During the assessment period, except in prescribed circumstances and subject to prescribed conditions—

- (a) no transfers of, or transfer payments in respect of, any member's rights under the scheme rules are to be made from the scheme, and
- (b) no other steps may be taken to discharge any liability of the scheme to or in respect of a member of the scheme in respect of—
 - (i) pensions or other benefits, or
 - (ii) such other liabilities as may be prescribed.

(5) Paragraph (4)—

- (a) is subject to Article 122, and
- (b) applies whether or not the scheme was being wound up immediately before the assessment period or began winding up by virtue of paragraph (3).

(6) Paragraph (7) applies where, on the commencement of the assessment period—

- (a) a member's pensionable service terminates, and
- (b) he becomes a person to whom Chapter 5 of Part IV of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds) applies.

Article 134(5) (retrospective accrual of benefits in certain circumstances) is to be disregarded for the purposes of determining whether a member falls within sub-paragraph (a) or (b).

(7) Where this paragraph applies, during the assessment period—

- (a) no right or power conferred by that Chapter may be exercised, and
- (b) no duty imposed by that Chapter may be discharged.

(8) Where a person is entitled to a pension credit derived from another person's shareable rights (within the meaning of Chapter 1 of Part V of the 1999 Order (sharing of rights under pension arrangements)) under the scheme, nothing in paragraph (4) prevents the trustees or managers of the scheme discharging their liability in respect of the credit in accordance with that Chapter.

(9) Any action taken in contravention of this Article is void, except to the extent that the Board validates the action (see Article 120).

(10) Disregarding paragraph (9), where there is a contravention of this Article, Article 10 of the 1995 Order (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance with this Article.

(11) The Regulator may not make a freezing order (see Article 19) in relation to the scheme during the assessment period.