
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Powers in relation to winding up of occupational pension schemes

Freezing orders

19.—(1) This Article applies to an occupational pension scheme which is not a money purchase scheme.

(2) The Regulator may make a freezing order in relation to such a scheme if and only if—

(a) the order is made pending consideration being given to the making of an order in relation to the scheme under Article 11(1)(c) of the 1995 Order (power to wind up schemes where necessary to protect the generality of members), and

(b) the Regulator is satisfied that—

(i) there is, or is likely to be if the order is not made, an immediate risk to the interests of members under the scheme or the assets of the scheme, and

(ii) it is necessary to make the freezing order to protect the interests of the generality of the members of the scheme.

But no freezing order may be made in relation to a scheme during an assessment period (within the meaning of Article 116) in relation to the scheme (see Article 119(11)).

(3) A freezing order is an order directing that during the period for which it has effect—

(a) no benefits are to accrue under the scheme rules to, or in respect of, members of the scheme, and

(b) winding up of the scheme may not begin.

(4) A freezing order may also contain one or more of the following directions which have effect during the period for which the order has effect—

(a) a direction that no new members, or no specified classes of new member, are to be admitted to the scheme;

(b) a direction that—

(i) no further contributions or payments, or

(ii) no further specified contributions or payments,

are to be paid towards the scheme by or on behalf of the employer, any members or any specified members of the scheme;

(c) a direction that any amount or any specified amount which—

- (i) corresponds to any contribution which would be due to be paid towards the scheme on behalf of a member but for a direction under sub-paragraph (b), and
 - (ii) has been deducted from a payment of any earnings in respect of an employment, is to be repaid to the member in question by the employer;
- (d) a direction that no benefits, or no specified benefits, are to be paid to or in respect of any members or any specified members under the scheme rules;
- (e) a direction that payments of all benefits or specified benefits under the scheme rules to or in respect of all the members or specified members may only be made from the scheme if they are reduced in a specified manner or by a specified amount;
- (f) a direction that—
 - (i) no transfers or no specified transfers of, or no transfer payments or no specified transfer payments in respect of, any member's rights under the scheme rules are to be made from the scheme, or
 - (ii) no other steps or no specified other steps are to be taken to discharge any liability of the scheme to or in respect of a member of the scheme in respect of pensions or other benefits;
- (g) a direction that no statements of entitlement are to be provided to members of the scheme under section 89A of the Pension Schemes Act (salary related schemes: right to statement of entitlement);
- (h) a direction that—
 - (i) no refunds of, or no specified refunds of, or in respect of, contributions paid by or in respect of a member towards the scheme are to be made from the scheme, or
 - (ii) refunds or specified refunds of, or in respect of, contributions paid by or in respect of a member towards the scheme may only be made from the scheme if they are determined in a specified manner and satisfy such other conditions as may be specified.
- (5) In paragraph (4)(b)—
 - (a) the references to contributions do not include contributions due to be paid before the order takes effect, and
 - (b) the references to payments towards a scheme include payments in respect of pension credits where the person entitled to the credit is a member of the scheme.
- (6) A freezing order may not contain a direction under paragraph (4)(d) or (e) which reduces the benefits payable to or in respect of a member, for the period during which the order has effect, below the level to which the trustees or managers of the scheme would have power to reduce them if a winding up of the scheme had begun at the time when the freezing order took effect.
- (7) A direction under paragraph (4)(f) may, in particular, provide that transfers or specified transfers of, or transfer payments or specified transfer payments in respect of, any member's rights under the scheme rules may not be made from the scheme unless the amounts paid out from the scheme in respect of the transfers or transfer payments are determined in a specified manner and the transfer or transfer payments satisfy such other conditions as may be specified.
- (8) A freezing order may also require the trustees or managers of the scheme to obtain an actuarial valuation within a specified period.
- (9) A freezing order containing such a requirement must specify—
 - (a) the date by reference to which the assets and liabilities are to be valued,
 - (b) the assets and liabilities which are to be taken into account,

- (c) the manner in which the valuation must be prepared,
 - (d) the information and statements which it must contain, and
 - (e) any other requirements that the valuation must satisfy.
- (10) For the purposes of paragraph (8)—
- “an actuarial valuation” means a written valuation of the scheme’s assets and liabilities prepared and signed by the actuary,
- “the actuary” means—
- (a) the actuary appointed under Article 47(1)(b) of the 1995 Order (professional advisers) in relation to the scheme, or
 - (b) if no such actuary has been appointed—
 - (i) a person with prescribed qualifications or experience, or
 - (ii) a person approved by the Department.
- (11) In this Article “specified” means specified in the freezing order.