

## STATUTORY INSTRUMENTS

# 2005 No. 255

## The Pensions (Northern Ireland) Order 2005

### PART II

#### THE PENSIONS REGULATOR

*<sup>F1</sup>Financial penalty for conduct risking accrued scheme benefits*

**F1** Arts. 54C, 54D inserted (1.10.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(b), Sch. 8 para. 6(2); S.R. 2021/271, art. 2(3)(d) (with art. 3(1)(4))

**54D.**—(1) This Article applies in relation to an occupational pension scheme other than—

- (a) a money purchase scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.

(2) Article 83A (financial penalties) applies to a person who was party to an act or deliberate failure to act that detrimentally affected in a material way the likelihood of accrued scheme benefits being received (whether the benefits are to be received as benefits under the scheme or otherwise), if—

- (a) the person knew or ought to have known that the act or failure to act would have that effect, and
- (b) it was not reasonable for the person to act or fail to act in the way that the person did.

(3) This Article does not apply where the Regulator is of the opinion that the person, in being a party to the act or failure, was acting in accordance with the person's functions as an insolvency practitioner in relation to another person (see Article 54A(9)).

(4) In this Article a reference to accrued scheme benefits being received is a reference to benefits the rights to which have accrued by the relevant time being received by, or in respect of, the persons who were members of the scheme before that time.

(5) In this Article “the relevant time” means—

- (a) in the case of an act, the time of the act;
- (b) in the case of a failure to act—
  - (i) the time when the failure to act occurred, or
  - (ii) where the failure continued for a period of time, the end of that period;

and, in the case of acts or failures to act forming part of a series, any reference in this paragraph to an act or failure to act is a reference to the last of the acts or failures in that series.

(6) A reference in this Article to rights which have accrued is to be read in accordance with Article 67A(6) and (7) of the 1995 Order (reading any reference in those paragraphs to a subsisting right as a reference to a right which has accrued).

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**Changes to legislation:** *The Pensions (Northern Ireland) Order 2005, Cross Heading: Financial penalty for conduct risking accrued scheme benefits is up to date with all changes known to be in force on or before 01 May 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) View outstanding changes*

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(7) In determining for the purposes of this Article whether an act or failure to act has detrimentally affected in a material way the likelihood of accrued scheme benefits being received, the following provisions are to be disregarded—

- (a) Chapter 3 of Part 3 (the Board of the Pension Protection Fund: pension protection), and
- (b) section 286 of the Pensions Act 2004 (the financial assistance scheme for members of certain pension schemes).

(8) For the purposes of this Article the parties to an act or deliberate failure to act include those persons who knowingly assist in the act or failure.

(9) If the Regulator is of the opinion that—

- (a) a person was party to a series of acts or deliberate failures to act, and
- (b) the requirements of paragraph (2) are met in relation to the series,

the series of acts or failures to act is to be regarded as an act or failure to act in relation to which the requirements of paragraph (2) are met.]

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**Modifications etc. (not altering text)**

- C1** [Art. 54D](#) modified (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) \(Modifications and Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/192\)](#), regs. 1(1), **14(4)**

**Changes to legislation:**

The Pensions (Northern Ireland) Order 2005, Cross Heading: Financial penalty for conduct risking accrued scheme benefits is up to date with all changes known to be in force on or before 01 May 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.

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 6 para. 21(2)(c)-(cc) substituted for (b)(c) by [2008 c. 13 \(N.I.\) Sch. 6 para. 11](#)
- art. 2(4)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 21\(3\)\(b\)](#)
- art. 19(1A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(3\)](#)
- art. 19(10A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(5\)](#)
- art. 34(1)-(1B) substituted for art. 34(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 25](#)
- art. 34(7)(da) inserted by [2021 c. 1 Sch. 8 para. 3\(2\)](#)
- art. 39(1)-(1B) substituted for art. 39(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(2\)](#)
- art. 48(1)-(1B) substituted for art. 48(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 27](#)
- art. 75(1)(a)(iib) inserted by [2021 c. 1 Sch. 8 para. 8\(2\)](#)
- art. 110(1)-(1B) substituted for art. 110(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 29](#)
- art. 191(5) added by [2008 c. 13 \(N.I.\) Sch. 9 para. 6](#)
- art. 267(4)(f) and word inserted by [2021 c. 1 Sch. 6 para. 20\(b\)](#)