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STATUTORY INSTRUMENTS

1972 No. 1073 (N.I. 10)

Superannuation (Northern Ireland) Order 1972

- - - - - - *[19th July 1972]*

Introductory

Title and commencement

1. This Order may be cited as the Superannuation (Northern Ireland) Order 1972 … *Commencement* …

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

"civil service" means the civil service of Northern Ireland;

"district council" means a district council established under the Local Government Act (Northern Ireland) 1972 ;

"government department" means a department of the Government of Northern Ireland;

"local authority [F1]" means—

(a) before the date of the first coming into office of members of district councils, the council of a county, a county or other borough, or an urban or rural district, a new town commission, the Belfast City and District Water Commissioners or the Northern Ireland Local Government Officers' Superannuation Committee;

(b) on and after that date but before [[F2] 1st October 1973], any authority such as is mentioned in paragraph (*a*) or a district council;

(c) on and after [[F2] 1st October 1973], a district council, a new town commission, or the Northern Ireland Local Government Officers' Superannuation Committee;

"the Ministry" means the Ministry of Finance;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

"transferred provision" has the meaning assigned to it by section 1(*g*) of the Interpretation Act (Northern Ireland) 1954.

(3) References in this Order to a transferred provision include a transferred provision contained in or made under a local or personal Act or an Act confirming a provisional order, and any reference in this Order to any transferred provision includes a reference to that transferred provision as extended

or applied by or under any other transferred provision, including such a provision contained in this Order.

F1 1981 NI 3
F2 1972 NI 21

Persons employed in the civil service, etc.

Superannuation schemes as respects civil servants, etc.

3.—[F3](1) The Ministry—

(a) may make, maintain, and administer schemes (whether contributory or not) whereby provision is made with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the scheme, are to be paid, or may be paid, by the Ministry to or in respect of such of the persons to whom this Article applies as it may determine;

(b) may, in relation to such persons as any such scheme may provide, pay or receive transfer values;

(c) may make, in such circumstances as any such scheme may provide, payments by way of a return of contributions, with or without interest; and

(d) may make such payments as it thinks fit towards the provision, otherwise than by virtue of such a scheme, of superannuation benefits for or in respect of such of the persons to whom this Article applies as it may determine.

[[F4](1A) Where a money purchase scheme under this Article includes provision enabling a member to elect for the benefits which are to be provided to or in respect of him to be purchased from any authorised provider whom he may specify, then—

(a) notwithstanding paragraph (1)(a), the scheme may make provision for the making of such an election to have the effect, in such cases as the scheme may specify, of discharging any liability of the Department to pay those benefits to or in respect of that member, but

(b) the scheme shall not be so framed as to have the effect that benefits under it may only be provided in a manner which discharges that liability of the Department.**]**

[[F5](1B) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).**]**

(2) Before making any scheme under this Article the Ministry shall consult with persons appearing to the Ministry to represent persons likely to be affected by the proposed scheme or with the last-mentioned persons.

(3) This Article applies to persons serving—

(a) in employment in the civil service; or

(b) in employment of any of the kinds listed in Schedule 1; or

(c) in an office so listed.

[[F6](3A) This Article also applies to persons serving in employment or in an office, not being service in employment or in an office of a kind mentioned in paragraph (3), where the employment or office is specified in a list produced for the purposes of this paragraph (see Article 3A).**]**

(4) Subject to paragraph (5), the Ministry may by order—

(a) add any employment to those listed in Schedule 1, being employment by a body or in an institution specified in the order; or

(b) add any office so specified to the offices so listed; or

(c) remove any employment or office from the employments or offices so listed.

(5) No employment or office shall be added to those listed in Schedule 1 unless the remuneration of persons serving in that employment or office is paid out of moneys appropriated by a transferred provision or out of the Consolidated Fund.

(6) Notwithstanding paragraph (5), the Ministry may by order provide that this Article shall apply to persons serving in employment which is remunerated out of a fund specified in the order, being a fund established by or under a transferred provision.

(7) An order under paragraph (4) or (6)—

(a) may be made so as to have effect as from a date before the making of the order;

(b) may include transitional and other supplemental provisions; and

(c) shall be subject to negative resolution.

[F4(8) In this article—

[F7"authorised provider", in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;

(b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in paragraph (8B), (8C) or (8D); or

(c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be to provide that benefit;**]**

"money purchase scheme" means a scheme under which all the benefits that may be provided are money purchase benefits, as defined in**[**F8 section 176(1) of the Pension Schemes (Northern Ireland) Act 1993**].]**

[F7(8A) In paragraph (8), the definition of "authorised provider" must be read with—

(a) section 22 to the Financial Services and Markets Act 2000;

(b) any relevant order made under that section; and

(c) Schedule 2 to that Act.

(8B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and

(b) that firm is authorised by its home state authorisation to carry on that service.

(8C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and

(b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.

(8D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;

(b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and

(c) that the firm also carries on the activity in question in its home State.

(8E) Expressions used in paragraphs (8B) to (8D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meanings in those paragraphs as they have in that Schedule.**]**

F3 functions transf. by 1982 NI 6
F4 1990 NI 13
F5 Art. 3(1B) inserted (28.4.2014) by Public Service Pensions Act (Northern Ireland) 2014 (c. 2), s. 37(2), **Sch. 8 para. 11**; S.R. 2014/123, art. 2(1)(r)
F6 Art. 3(3A) inserted (11.3.2014) by Public Service Pensions Act (Northern Ireland) 2014 (c. 2), art. 37(1)(a), **Sch. 9 para. 2**
F7 SI 2002/1555
F8 1993 c. 49

Modifications etc. (not altering text)
C1 Art. 3 extended (15.2.2007) by Victims and Survivors (Northern Ireland) Order 2006 (S.I. 2006/2953 (N.I. 17)), arts. 1(3), 4(3), **Sch. para. 5(6)**; S.R. 2007/96, art. 2
C2 Art. 3 extended by Police (Northern Ireland) Act 1998 (c. 32), Sch. 3 para. 3(2A) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 39(5)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
C3 Art. 3 extended by Justice (Northern Ireland) Act 2002 (c. 26), Sch. 8 para. 3(2A) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 24(4)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
C4 Art. 3 extended by Justice (Northern Ireland) Act 2002 (c. 26), Sch. 9 para. 4(2A) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 25(4)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
C5 Art. 3 extended by Judicature (Northern Ireland) Act 1978 (c. 23), s. 75(8) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 21** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)

[F9 List of employments and offices for purposes of Article 3

3A.—(1) The Department may specify an employment or office in a list produced for the purposes of Article 3(3A) if paragraph (2), (3) or (4) applies in relation to the employment or office.

(2) This paragraph applies to an employment or office if—

(a) at any time on or after the commencement of this Article, the employment or office ceases to be of a kind mentioned in Article 3(3), and

(b) immediately before that time persons serving in the employment or office are, or are eligible to be, members of a scheme under Article 3 by virtue of Article 3(3).

(3) This paragraph applies to an employment or office if—

(a) at any time before the commencement of this Article, the employment or office ceased to be of a kind mentioned in Article 3(3), and

(b) at that time persons serving in the employment or office ceased to be members of a scheme under Article 3 or to be eligible for membership of such a scheme.

(4) This paragraph applies to an employment or office if—

(a) it is of a description prescribed by regulations, and

(b) the Department determines that it is appropriate for it to be specified for the purposes of Article 3(3A).

(5) The power to specify an employment or office in reliance on paragraph (4) may be exercised so as to have retrospective effect.

(6) The Department—

(a) may at any time amend a list produced under this Article, and

(b) must publish the list (and any amendments to it).

(7) The published list must comply with such requirements, and contain such information, as may be prescribed by regulations.

(8) Regulations made under this Article are subject to negative resolution.**]**

F9 Art. 3A inserted (11.3.2014) by Public Service Pensions Act (Northern Ireland) 2014 (c. 2), art. 37(1)(a), **Sch. 9 para. 3**

Further provisions relating to schemes under Article 3

4.—(1) A scheme under Article 3 which makes provision with respect to the pensions, allowances or gratuities which are to be, or may be, paid to or in respect of a person to whom that Article applies and who is incapacitated or dies as a result of an injury sustained, or disease contracted, in circumstances prescribed by the scheme may make the like provision in relation to any other person, being a person who is employed for the purposes of the Government of Northern Ireland, whether temporarily or permanently and whether for reward or not, or is a person holding office in that Government and who is incapacitated or dies as a result of an injury or disease so sustained or contracted.

(2) Any scheme under Article 3 may make provision for the payment by the Ministry of pensions, allowances or gratuities by way of compensation to or in respect of persons—

(a) to whom that Article applies; and

(b) who suffer loss of office or employment, or loss or diminution of emoluments, in such circumstances, or by reason of the happening of such an event, as may be prescribed by the scheme.

[F10(3) **[**F11Subject to paragraph (3A),**]** No scheme under Article 3 shall make any provision which would have the effect of reducing the amount of any pension, allowance or gratuity, in so far as that amount is directly or indirectly referable to rights which have accrued (whether by virtue of service rendered, contributions paid or any other thing done) before the coming into operation of the scheme, unless the persons consulted in accordance with Article 3(2) have agreed to the inclusion of that provision.**]**

[F12(3A) Paragraph (3) does not apply to a provision which would have the effect of reducing the amount of a compensation benefit except in so far as the compensation benefit is one provided in respect of a loss of office or employment which is the consequence of—

(a) a notice of dismissal given before the coming into operation of the scheme which would have that effect, or

(b) an agreement made before the coming into operation of that scheme.