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STATUTORY INSTRUMENTS

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**2005 No. 255**

**The Pensions (Northern Ireland) Order 2005**

**PART II**

**THE PENSIONS REGULATOR**

*Contribution notices where avoidance of employer debt*

**The sum specified in an Article 34 contribution notice**

<sup>F1</sup>35.—(1) The sum specified by the Regulator in a contribution notice under Article 34 may be either the whole or a specified part of the shortfall sum in relation to the scheme.

(2) Subject to paragraph (3), the shortfall sum in relation to a scheme is—

- (a) in a case where, at the relevant time, a debt was due from the employer to the trustees or managers of the scheme under Article 75 of the 1995 Order (deficiencies in the scheme assets), the amount which the Regulator estimates to be the amount of that debt at that time, and
- (b) in a case where, at the relevant time, no such debt was due, the amount which the Regulator estimates to be the amount of the debt under Article 75 of the 1995 Order which would become due if—
  - (i) paragraph (2) of that Article applied, and
  - (ii) the time designated by the trustees or managers of the scheme for the purposes of that paragraph were the relevant time.

(3) Where the Regulator is satisfied that the act or failure to act falling within Article 34(5) resulted—

- (a) in a case falling within sub-paragraph (a) of paragraph (2), in the amount of the debt which became due under Article 75 of the 1995 Order being less than it would otherwise have been, or
- (b) in a case falling within sub-paragraph (b) of paragraph (2), in the amount of any such debt calculated for the purposes of that sub-paragraph being less than it would otherwise have been,

the Regulator may increase the amounts calculated under paragraph (2)(a) or (b) by such amount as the Regulator considers appropriate.

[<sup>F2</sup>(4) For the purposes of this Article “the relevant time” means the end of the scheme year which ended most recently before the day on which the Regulator gives a determination notice under Article 91(2)(d) in respect of an intended contribution notice under Article 34.]

<sup>F3</sup>(4A) .....

(5) For the purposes of this Article—

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**Changes to legislation:** *The Pensions (Northern Ireland) Order 2005, Section 35 is up to date with all changes known to be in force on or before 24 April 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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- (a) references to a debt due under Article 75 of the 1995 Order include a contingent debt under that Article, and
- (b) references to the amount of such a debt include the amount of such a contingent debt.

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| <p><b>F1</b> mod. by SR 2005/378</p> <p><b>F2</b> Art. 35(4) substituted (1.10.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(b), <b>Sch. 8 para. 4(2)</b>; S.R. 2021/271, art. 2(3)(b) (with art. 3(1)(2))</p> <p><b>F3</b> Art. 35(4A) omitted (1.10.2021) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(b), <b>Sch. 8 para. 4(3)</b>; S.R. 2021/271, art. 2(3)(b) (with art. 3(1)(2))</p> |
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[View outstanding changes](#)

**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\(b\)](#)