
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Financial support directions

Financial support directions

39.—(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) The Regulator may issue a financial support direction under this Article in relation to such a scheme if the Regulator is of the opinion that the employer in relation to the scheme—

- (a) is a service company, or
- (b) is insufficiently resourced,

at a time determined by the Regulator which falls within paragraph (9) (“the relevant time”).

(3) A financial support direction in relation to a scheme is a direction which requires the person or persons to whom it is issued to secure—

- (a) that financial support for the scheme is put in place within the period specified in the direction,
- (b) that thereafter that financial support or other financial support remains in place while the scheme is in existence, and
- (c) that the Regulator is notified in writing of prescribed events in respect of the financial support as soon as reasonably practicable after the event occurs.

(4) A financial support direction in relation to a scheme may be issued to one or more persons.

(5) But the Regulator may issue such a direction to a person only if—

- (a) the person is at the relevant time a person falling within paragraph (6), and
- (b) the Regulator is of the opinion that it is reasonable to impose the requirements of the direction on that person.

(6) A person falls within this paragraph if the person is—

- (a) the employer in relation to the scheme,
- (b) an individual who—
 - (i) is an associate of an individual who is the employer, but
 - (ii) is not an associate of that individual by reason only of being employed by him, or
- (c) a person, other than an individual, who is connected with or an associate of the employer.

(7) The Regulator, when deciding for the purposes of paragraph (5)(b) whether it is reasonable to impose the requirements of a financial support direction on a particular person, must have regard to such matters as the Regulator considers relevant including, where relevant, the following matters—

- (a) the relationship which the person has or has had with the employer (including, where the employer is a company within the meaning of paragraph (11) of Article 4 of the Insolvency Order, whether the person has or has had control of the employer within the meaning of paragraph (10) of that Article),
- (b) in the case of a person falling within paragraph (6)(b) or (c), the value of any benefits received directly or indirectly by that person from the employer,
- (c) any connection or involvement which the person has or has had with the scheme,
- (d) the financial circumstances of the person, and
- (e) such other matters as may be prescribed.

(8) A financial support direction must identify all the persons to whom the direction is issued.

(9) A time falls within this paragraph if it is a time which falls within a prescribed period which ends with the determination by the Regulator to exercise the power to issue the financial support direction in question.

(10) For the purposes of paragraph (3), a scheme is in existence until it is wound up.

(11) Subject to Article 283 (protected items), no duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a notice given by virtue of paragraph (3)(c).