
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Financial support directions

Financial support directions

^{F1}**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.

Changes to legislation: *The Pensions (Northern Ireland) Order 2005, Section 39 is up to date with all changes known to be in force on or before 27 June 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*

(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 [^{F2}giving of a warning notice in respect of] 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).

[^{F3}(12) In this Article “ a warning notice ” means a notice given as mentioned in Article 91(2)(a).]

F1 mod. by SR 2005/378

F2 Words in art. 39(9) substituted (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 24\(5\), 34\(3\)](#); S.R. 2012/233, art. 2(2)(g)

F3 Art. 39(12) added (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 24\(6\), 34\(3\)](#); S.R. 2012/233, art. 2(2)(g)

Modifications etc. (not altering text)

C1 Art. 39 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, Section 39 is up to date with all changes known to be in force on or before 27 June 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 :

- art. 39(2) words substituted by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(3\)](#)

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\(b\)](#)