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STATUTORY INSTRUMENTS

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**2005 No. 255**

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

**PART IX**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Regulations and orders*

**Assembly etc. control of orders and regulations**

**288.**—(1) Subject to the following provisions of this Article—

- (a) any orders made under this Order by a Northern Ireland department, and
- (b) any regulations made under this Order,

are subject to negative resolution.

(2) Orders and regulations to which this paragraph applies—

- (a) must be laid before the Assembly after being made; and
- (b) take effect on such date as may be specified in the order or regulations, but (without prejudice to the validity of anything done thereunder or to the making of a new order or new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order or regulations are approved by a resolution of the Assembly.

(3) Paragraph (2) applies to—

- (a) regulations under Article 2(5)(b) (power to extend meaning of employer);

[<sup>F1</sup>(aa) regulations under Article 34A(10) or 34B(13) (Article 34 contribution notices: “the material detriment test”);]

[<sup>F2</sup>(aaa) regulations under Article 34E(2)(a) (Article 34 contribution notice: constitution of resources of employer);

- (aab) regulations under Article 34E(2)(b) (Article 34 contribution notice: valuation of resources of employer);]

[<sup>F3</sup>(ab) regulations under Article 35A(5), 35B(8) or 39B(8) (contribution notices and financial support directions: bulk transfers);]

[<sup>F4</sup>(ac) regulations under Article 54A(1) (offence of avoidance of employer debt: power to except certain schemes);

- (ad) regulations under Article 54B(1) (offence of conduct risking accrued scheme benefits: power to except certain schemes);

- (ae) regulations under Article 54C(1) (financial penalty for avoidance of employer debt: power to except certain schemes);

- (af) regulations under Article 54D(1) (financial penalty for conduct risking accrued scheme benefits: power to except certain schemes);

*Status: Point in time view as at 01/10/2021. This version of this provision has been superseded.*

*Changes to legislation: The Pensions (Northern Ireland) Order 2005, Section 288 is up to date with all changes known to be in force on or before 22 July 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)*

- (ag) regulations under Article 68(5B)(a) (inspection of premises: power to specify provisions by reference to which there may be inspection);
- (ah) regulations under Article 83A(3) (financial penalties: power to amend maximum amount of penalty);]
- <sup>F5</sup>(b) .....
- (c) regulations under Article 151 (modification of Chapter 3 of Part III where liabilities discharged during the assessment period);
- (d) regulations under Article 157 (the initial levy);
- (e) regulations under Article 158 (pension protection levies);
- (f) an order or regulations under Article 191 (the PPF Ombudsman);
- (g) regulations under Article 192 (reference of reviewable matter to the PPF Ombudsman);
- (h) regulations under Article 193 (investigation by PPF Ombudsman of complaints of maladministration);
- [<sup>F6</sup>(ha) the first regulations under Article 200A(4)(a) and (b) (funding and investment strategy: matters to be taken into account etc and level of detail);
- (hb) the first regulations under Article 200B(2)(d) (Part 2 of statement of strategy: additional matters to be included);
- (hc) the first regulations under Article 200B(8)(a) and (b) (Part 2 of statement of strategy: matters to be taken into account etc and level of detail);]
- (i) regulations under Article 214 (combined pension forecasts);
- (j) regulations under Article 215 (information and advice to employees);
- [<sup>F7</sup>(ja) regulations under Article 215A (qualifying pensions dashboard service);
- (jb) regulations under Article 215D (information from occupational pension schemes);
- (jc) regulations under Article 215G (compliance with regulations under Article 215D);]
- (k) an order under Article 220(1) (power to provide for minimum fraction of member-nominated trustees or directors to be one-half);
- (l) regulations which make provision by virtue of Article 238(2)(f) (power to make amendments etc. to certain statutory provisions);
- (m) regulations which make provision by virtue of Article 286(b) (power to provide for contravention of regulations to be criminal offence);
- (n) an order under Article 290(2) (power to make consequential amendments to statutory provisions);
- (o) an order under paragraph 24(8) of Schedule 6 (power to vary percentage of periodic compensation that can be commuted); or
- (p) an order under paragraph 30(1) of that Schedule (power to vary percentage paid as compensation from the Pension Protection Fund).
- (4) Paragraph (1) does not apply to—
  - (a) an order under Article 1 (title and commencement);
  - (b) an order under Article 86(7) (commencement of code of practice);
  - (c) an order under Article 110(2) (schemes winding up before day appointed by order not eligible schemes for purposes of Part III); or
  - (d) an order under Article 165(10) (order appointing day after which losses of non-trust schemes are relevant for fraud compensation purposes).

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- (5) This paragraph applies to any regulations or orders made under this Order which—
- (a) but for paragraph (6), would be subject to negative resolution, and
  - (b) are contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.
- (6) Any regulations or orders to which paragraph (5) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (7) Orders made under this Order by a Minister of the Crown are subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946 (c. 36) applies accordingly.
- (8) In this Article “the confirmatory procedure” means the procedure described in paragraph (2).

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| <b>F1</b> | Art. 288(3)(aa) inserted (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 103, 118(1)(2)(h)(3)(a)(iii)(vi)(b), <b>Sch. 8 para. 5</b>   |
| <b>F2</b> | Art. 288(3)(aaa)(aab) inserted (1.9.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(b), <b>Sch. 8 para. 26(2)</b> ; S.R. 2021/240, art. 2(2)(d)             |
| <b>F3</b> | Art. 288(3)(ab) inserted (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 103, 118(1)(2)(h)(3)(a)(v)(vi)(b), <b>Sch. 8 para. 12</b>    |
| <b>F4</b> | Art. 288(3)(ac)-(ah) inserted (1.10.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(b), <b>Sch. 8 para. 26(3)</b> ; S.R. 2021/271, art. 2(4)(f)             |
| <b>F5</b> | Art. 288(3)(b) omitted (7.6.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(3), <b>Sch. 4 para. 18</b> ; S.R. 2012/233, art. 2(2)(k)(iii) |
| <b>F6</b> | Art. 288(3)(ha)-(hc) inserted (11.2.2021 for specified purposes) by Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), <b>Sch. 11 para. 11</b>                |
| <b>F7</b> | Art. 288(3)(ja)-(jc) inserted (11.2.2021 for specified purposes) by Pension Schemes Act 2021 (c. 1), s. 131(2)(c)(3)(a), <b>Sch. 9 para. 5</b>                  |

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