

STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Contribution notices where avoidance of employer debt

VALID FROM 15/12/2008

[^{F1} Article 35A: supplemental

35B.—(1) In Article 35A a “transferee scheme”, in relation to any time, means any work-based pension scheme—

- (a) to which the accrued rights of at least two persons who were members of the initial scheme have been transferred, and
- (b) of which any of those persons are members at that time.

(2) For the purposes of Article 35A(1) and paragraph (1) it does not matter whether any rights are transferred to a work-based pension scheme directly from the initial scheme or following one or more other transfers to other work-based pension schemes.

(3) For the purposes of Article 35A and this Article references to the transfer of accrued rights of members of a pension scheme to another pension scheme include references to the extinguishing of those accrued rights in consequence of the obligation to make a payment, or transfer an asset, to that other scheme.

(4) In Article 35A and this Article—

- (a) “work-based pension scheme” has the meaning given by Article 4(3);
- (b) any reference to rights which have accrued is to be read in accordance with Article 67A(6) and (7) of the 1995 Order (reading any reference in those paragraphs to a subsisting right as a reference to a right which has accrued).

(5) Article 35A applies even if the initial scheme—

- (a) is wound up as a result of any transfer falling within paragraph (1)(b) of that Article, or
- (b) otherwise ceases to exist at the time of the transfer or at any subsequent time.

(6) Accordingly, in any such case, in paragraph (1) of that Article—

- (a) the reference to a scheme to which Article 34 applies is a reference to a scheme which was such a scheme before the transfer;
- (b) the reference to any conditions in Article 34 being met is a reference to any conditions in that Article that, but for the transfer, would have been met in relation to the scheme.

Status: Point in time view as at 01/01/2006. This version of this provision is not valid for this point in time.

Changes to legislation: The Pensions (Northern Ireland) Order 2005, Section 35B is up to date with all changes known to be in force on or before 09 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)

(7) Nothing in Article 35A or this Article is to be read as preventing the Regulator from issuing a contribution notice in relation to the initial scheme.

(8) Regulations may make provision applying, with or without modifications, any provision made by or under Article 35A or this Article in relation to any scheme or other arrangement in any case where the accrued rights of persons who were members of the initial scheme are transferred or extinguished directly or indirectly in consequence of or otherwise in connection with—

- (a) the making of any payment at any time to or for the benefit of the scheme or other arrangement,
- (b) the transfer of any asset at any time to or for the benefit of the scheme or other arrangement,
- (c) the discharge (wholly or partly) at any time of any liability incurred by or on behalf of the scheme or other arrangement, or
- (d) the incurring at any time of any obligation to do any act falling within sub-paragraphs (a) to (c).

(9) Any reference in paragraph (8)(a) to (d) to the doing of an act of any description at any time in relation to the scheme or other arrangement includes a reference to the doing of an act of that description at any previous time in relation to any other scheme or other arrangement.

(10) Regulations under paragraph (8) may—

- (a) make provision having effect in relation to any case where rights are transferred or extinguished on or after the date on which the Department publishes a statement of the intention to make the regulations; and
- (b) without prejudice to Article 287(3), make consequential provision applying with modifications any provision of this Order which relates to contribution notices under Article 34.]

F1 Arts. 35A, 35B 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), **Sch. 8 para. 9** (with Sch. 8 para. 15(3) and transitional provision in Sch. 8 para. 16(1) for art. 35B(8)(10)(a))

Status:

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