
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Contribution notices where avoidance of employer debt

Content and effect of an Article 34 contribution notice

36^{F1}.—(1) This Article applies where a contribution notice is issued to a person under Article 34.

(2) The contribution notice must—

- (a) contain a statement of the matters which it is asserted constitute the act or failure to act which falls within paragraph (5) of Article 34,
- (b) specify the sum which the person is stated to be under a liability to pay, and
- (c) identify any other persons to whom contribution notices have been or are issued as a result of the act or failure to act in question and the sums specified in each of those notices.

[^{F2}(2A) Without prejudice to paragraphs (3) and (7), the contribution notice must also specify a date for the purposes of Articles 38A(2) and 38B(2) (sanctions for failure to comply with a contribution notice).]

(3) Where the contribution notice states that the person is under a liability to pay the sum specified in the notice to the trustees or managers of the scheme, the sum is to be treated as a debt due from the person to the trustees or managers of the scheme.

(4) In such a case, the Regulator may, on behalf of the trustees or managers of the scheme, exercise such powers as the trustees or managers have to recover the debt.

(5) But during any assessment period (within the meaning of Article 116) in relation to the scheme, the rights and powers of the trustees or managers of the scheme in relation to any debt due to them by virtue of a contribution notice are exercisable by the Board to the exclusion of the trustees or managers and the Regulator.

(6) Where, by virtue of paragraph (5), any amount is paid to the Board in respect of a debt due by virtue of a contribution notice, the Board must pay the amount to the trustees or managers of the scheme.

(7) Where the contribution notice states that the person is under a liability to pay the sum specified in the notice to the Board, the sum is to be treated as a debt due from the person to the Board.

(8) Where the contribution notice so specifies, the person to whom the notice is issued (“P”) is to be treated as jointly and severally liable for the debt with any persons specified in the notice who are persons to whom corresponding contribution notices are issued.

(9) For the purposes of paragraph (8), a corresponding contribution notice is a notice which—

- (a) is issued as a result of the same act or failure to act falling within paragraph (5) of Article 34 as the act or failure as a result of which P's contribution notice is issued,

Changes to legislation: *The Pensions (Northern Ireland) Order 2005, Section 36 is up to date with all changes known to be in force on or before 20 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*

(b) specifies the same sum as is specified in P's contribution notice,

[^{F3}(ba) specifies the same date for the purposes of Articles 38A(2) and 38B(2) as is specified in P's contribution notice,] and

(c) specifies that the person to whom the contribution notice is issued is jointly and severally liable with P, or with P and other persons, for the debt in respect of that sum.

(10) A debt due by virtue of a contribution notice is not to be taken into account for the purposes of Article 75(2) and (4) of the 1995 Order (deficiencies in the scheme assets) when ascertaining the amount or value of the assets or liabilities of a scheme.

F1 mod. by SR 2005/378

F2 Art. 36(2A) inserted (1.10.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(b), **Sch. 8 para. 5(1)(a)**; S.R. 2021/271, art. 2(3)(c) (with art. 3(1)-(3))

F3 Art. 36(9)(ba) inserted (1.10.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(b), **Sch. 8 para. 5(1)(b)**; S.R. 2021/271, art. 2(3)(c) (with art. 3(1)-(3))

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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\(b\)](#)