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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

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

**PART II**

**THE PENSIONS REGULATOR**

*Contribution notices where avoidance of employer debt*

**Article 34 contribution notice: clearance statements**

**38.**—(1) An application may be made to the Regulator under this Article for the issue of a clearance statement within sub-paragraph (a), (b) or (c) of paragraph (2) in relation to circumstances described in the application.

(2) A clearance statement is a statement, made by the Regulator, that in its opinion in the circumstances described in the application—

- (a) the applicant would not be, for the purposes of paragraph (3)(a) of Article 34, a party to an act or a deliberate failure to act falling within paragraph (5)(a) of that Article,
- (b) it would not be reasonable to impose any liability on the applicant under a contribution notice issued under Article 34, or
- (c) such requirements of that Article as may be prescribed would not be satisfied in relation to the applicant.

(3) Where an application is made under this Article, the Regulator—

- (a) may request further information from the applicant;
- (b) may invite the applicant to amend the application to modify the circumstances described.

(4) Where an application is made under this Article, the Regulator must as soon as reasonably practicable—

- (a) determine whether to issue the clearance statement, and
- (b) where it determines to do so, issue the statement.

(5) A clearance statement issued under this Article binds the Regulator in relation to the exercise of the power to issue a contribution notice under Article 34 to the applicant unless—

- (a) the circumstances in relation to which the exercise of the power under that Article arises are not the same as the circumstances described in the application, and
- (b) the difference in those circumstances is material to the exercise of the power.