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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

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

**PART II**

**THE PENSIONS REGULATOR**

*Financial support directions*

**Meaning of “service company” and “insufficiently resourced”**

- 40.**—(1) This Article applies for the purposes of Article 39 (financial support directions).
- (2) An employer (“E”) is a service company at the relevant time if—
- (a) E is a company within the meaning given by Article 3(1) of the Companies Order,
  - (b) E is a member of a group of companies, and
  - (c) E’s turnover, as shown in the latest available accounts for E prepared in accordance with Article 234 of that Order, is solely or principally derived from amounts charged for the provision of the services of employees of E to other members of that group.
- (3) The employer in relation to a scheme is insufficiently resourced at the relevant time if—
- (a) at that time the value of the resources of the employer is less than the amount which is a prescribed percentage of the estimated Article 75 debt in relation to the scheme, and
  - (b) there is at that time a person who falls within paragraph (6)(b) or (c) of Article 39 and the value at that time of that person’s resources is not less than the amount which is the difference between—
    - (i) the value of the resources of the employer, and
    - (ii) the amount which is the prescribed percentage of the estimated Article 75 debt.
- (4) For the purposes of paragraph (3)—
- (a) what constitutes the resources of a person is to be determined in accordance with regulations, and
  - (b) the value of a person’s resources is to be determined, calculated and verified in a prescribed manner.
- (5) In this Article the “estimated Article 75 debt”, in relation to a scheme, means the amount which the Regulator estimates to be the amount of the debt which would become due from the employer to the trustees or managers of the scheme under Article 75 of the 1995 Order (deficiencies in the scheme assets) if—
- (a) paragraph (2) of that Article applied, and
  - (b) the time designated by the trustees or managers of the scheme for the purposes of that paragraph were the relevant time.

(6) When calculating the estimated Article 75 debt in relation to a scheme under paragraph (5), the amount of any debt due at the relevant time from the employer under Article 75 of the 1995 Order is to be disregarded.

(7) In this Article “the relevant time” has the same meaning as in Article 39.