

*These notes refer to the Pensions (No. 2) Act (Northern Ireland)
2008 (c.13) which received Royal Assent on 15 December 2008*

Pensions (No. 2) Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 5 - Miscellaneous

Section 106: Appointment of trustees

Article 7 of the Pensions (Northern Ireland) Order 1995 allows the Pensions Regulator to take action to appoint trustees where it is satisfied that this is necessary and only in certain specific circumstances. Where appropriate these trustees can be independent, that is, professional trustees that are fully independent of the employer or any other interest in the scheme. Examples of the circumstances in which this can be done are if the Regulator is of the opinion that the existing trustees of a scheme do not have the necessary knowledge for proper administration or if there isn't a sufficient number of trustees.

This section extends this power to allow the Regulator to appoint trustees in circumstances where it is reasonable to do so, instead of necessary. The "necessary test" means that the Regulator may only appoint a trustee if it is satisfied that there is no other option available and it must act almost as a last resort. A "reasonable test" would enable the Regulator to appoint a trustee where there are a range of options available but the appointment is the most appropriate action for the scheme.

It also amends Article 7(3) of the Pensions (Northern Ireland) Order 1995 to extend the circumstances in which this power may be exercised, to enable the Regulator to appoint trustees in order to protect the interest of the generality of scheme members. It also makes a change consequential on the addition of a further sub-paragraph to Article 7(3).