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## STATUTORY INSTRUMENTS

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# 2005 No. 255

## The Pensions (Northern Ireland) Order 2005

### PART IV

#### SCHEME FUNDING

##### *Scheme funding*

#### **Powers of the Regulator**

**210.**—(1) The powers conferred by this Article are exercisable where it appears to the Regulator with respect to a scheme (as a result of a report made to it or otherwise)—

- [<sup>F1</sup>(zza) that the trustees or managers have failed to comply with any of the requirements of Article 200A (funding and investment strategy) or regulations under that Article;]
- [<sup>F2</sup>(za) that the trustees or managers, when determining the methods and assumptions to be used in calculating the scheme's technical provisions, have failed to comply with a requirement imposed under Article 201(4)(c);]
  - (a) that the trustees or managers have failed to comply with the requirements of Article 202 with respect to the preparation or revision of a statement of funding principles;
  - (b) that the trustees or managers have failed to obtain an actuarial valuation as required by Article 203(1);
  - (c) that the actuary is unable, on an actuarial valuation required by Article 203(1), to certify the calculation of the scheme's technical provisions;
- (d <sup>F3</sup> <sup>F4</sup>that the trustees or managers have failed to comply with the requirements of Article 205 with respect to the preparation or revision of a recovery plan;
- (e) that the trustees or managers have failed to comply with the requirements of Article 206 with respect to the preparation or revision of a schedule of contributions;
- (f) that the actuary is unable to certify a schedule of contributions (see Article 206(6));
- (g) that the employer has failed to make payments in accordance with the schedule of contributions, or that are required of him by virtue of Article 207(3), and the failure is of material significance;
- (h) that the trustees or managers have been unable to reach agreement with the employer within the prescribed time as to a matter in relation to which such agreement is required (see Article 208(5)).

(2) In any of those circumstances the Regulator may by order exercise all or any of the following powers—

- (a) it may modify the scheme as regards the future accrual of benefits;
- [<sup>F5</sup>(aa) it may give a direction requiring the trustees or managers to revise the scheme's funding and investment strategy in accordance with the direction;]

**Changes to legislation:** *The Pensions (Northern Ireland) Order 2005, Section 210 is up to date with all changes known to be in force on or before 23 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) it may give directions as to—
- (i) the manner in which the scheme's technical provisions are to be calculated, including the methods and assumptions to be used in calculating the scheme's technical provisions, or
  - (ii) the period within which, and manner in which, any failure to meet the statutory funding objective is to be remedied;
- (c) it may impose a schedule of contributions specifying—
- (i) the rates of contributions payable towards the scheme by or on behalf of the employer and the active members of the scheme, and
  - (ii) the dates on or before which such contributions are to be paid.
- (3) No modification may be made under paragraph (2)(a) that on taking effect would or might adversely affect any subsisting right of—
- (a) any member of the scheme, or
  - (b) any survivor of a member of the scheme.
- For this purpose “subsisting right” and “survivor” have the meanings given by Article 67A of the 1995 Order.
- (4) In exercising any of the powers conferred by this Article the Regulator must comply with any prescribed requirements.
- (5) The powers conferred by this Article are in addition to any other powers exercisable by the Regulator under this Order or the 1995 Order.

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| <b>F1</b> | Art. 210(1)(zza) inserted (11.2.2021 for specified purposes) by Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), <b>Sch. 11 para. 7(2)</b>           |
| <b>F2</b> | Art. 210(1)(za) inserted (26.1.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), <b>ss. 107, 118(1)</b> ; S.R. 2009/22, <b>art. 2(1)(d)</b> |
| <b>F3</b> | mod. by SR 2005/568  |
| <b>F4</b> | mod. by SR 2005/570  |
| <b>F5</b> | Art. 210(2)(aa) inserted (11.2.2021 for specified purposes) by Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), <b>Sch. 11 para. 7(3)</b>            |

**Changes to legislation:**

The Pensions (Northern Ireland) Order 2005, Section 210 is up to date with all changes known to be in force on or before 23 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.

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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\(b\)](#)