STATUTORY INSTRUMENTS

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The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Applications under the Insolvency Order

Regulator's right to apply under Article 367 of the Insolvency Order

54.—(1) In this Article "Article 367" means Article 367 of the Insolvency Order (transactions defrauding creditors).

(2) The Regulator may apply for an order under Article 367 in relation to a debtor if—

(a) the debtor is the employer in relation to an occupational pension scheme, and

(b) condition A or condition B is met in relation to the scheme.

(3) Condition A is that an actuarial valuation under Article 127 obtained by the Board in respect of the scheme indicates that the value of the assets of the scheme at the relevant time, as defined by that Article, was less than the amount of the protected liabilities, as defined by Article 115, at that time.

(4) Condition B is that an actuarial valuation, as defined by Article 203(2), obtained by the trustees or managers of the scheme indicates that the statutory funding objective in Article 201 is not met.

(5) In a case where the debtor—

(a) has been adjudged bankrupt,

(b) is a body corporate which is being wound up or is in administration, or

(c) is a partnership which is being wound up or is in administration,

paragraph (2) does not enable an application to be made under Article 367 except with the permission of the court.

(6) An application made under this Article is to be treated as made on behalf of every victim of the transaction who is—

(a) a trustee or member of the scheme, or

(b) the Board.

(7) This Article does not apply where the valuation mentioned in paragraph (3) or (4) is made by reference to a date that falls before the coming into operation of this Article.

(8) Expressions which are defined by Article 367 for the purposes of that Article have the same meaning when used in this Article.