

SCHEDULES

SCHEDULE 7

Section 116

THE PENSIONS REGULATOR: MINOR AND CONSEQUENTIAL AMENDMENTS

Pensions Act 1995 (c. 26)

- 1 In section 10 of the Pensions Act 1995 (civil penalties), after subsection (9) insert—
- “(10) The Authority may not require a person to pay a penalty under this section in respect of an act or omission if the Authority have issued a notice to the person under section 88A of the Pensions Act 2004 (financial penalties) in respect of the same act or omission.”

Pensions Act 2004 (c. 35)

- 2 The Pensions Act 2004 is amended as follows.
- 3 In section 38B (section 38 contribution notice issued by reference to material detriment test: defence), in subsection (12), for paragraph (b) substitute—
- “(b) a reference to a party to an act or failure to act includes a reference to a person who knowingly assists in the act or failure;”.
- 4 In section 75 (inspection of premises: powers of inspectors), in subsection (1)—
- (a) after “subsection (1),” insert “(2A),”;
- (b) for “(3) or (4)” substitute “(3), (4) or (5A)”.
- 5 (1) Section 76 (inspection of premises: supplementary) is amended as follows.
- (2) In subsection (3)(a)—
- (a) after “virtue of”, in the second place it occurs, insert “section 77A, 77B or 88A of this Act,”;
- (b) for “either of them” substitute “any of those provisions”.
- (3) In subsection (9)—
- (a) after “(1),” insert “(2A),”;
- (b) for “(3) or (4)” substitute “(3), (4) or (5A)”.
- 6 In section 78 (warrants), in subsection (1)(c)(iii)—
- (a) after “virtue of”, in the first place it occurs, insert “section 77A, 77B or 88A of this Act,”;
- (b) for “either of them” substitute “any of those provisions”.
- 7 (1) Section 80 (offences of providing false or misleading information) is amended as follows.
- (2) In subsection (1)(a), after sub-paragraph (iii) insert—
- “(iiia) section 72A (interviews),”.

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- (3) In subsection (1)(c), for “under this Act or the Pensions Act 1995 (c. 26)” substitute “under—
- (i) the Pensions Act 1995,
 - (ii) this Act,
 - (iii) the Pensions Act 2008,
 - (iv) Schedule 18 to the Pensions Act 2014,
 - (v) the Pension Schemes Act 2017, or
 - (vi) Part 1 of the Pension Schemes Act 2021”.
- 8 In section 90 (codes of practice), in subsection (2)—
- (a) in paragraph (aa), after “test” insert “, the employer insolvency test or the employer resources test”;
 - (b) after paragraph (b) insert—
 - “(ba) the discharge of the duties imposed by section 69A (duty to give notices and statements to the Regulator in respect of certain events);”.
- 9 (1) Section 96 (the Regulator’s standard procedure in relation to its regulatory functions) is amended as follows.
- (2) In subsection (1A)(b), after “test” insert “, the employer insolvency test or the employer resources test”.
- (3) In subsection (1B)—
- (a) in paragraph (a), after “38B,” insert “38D or 38F (as the case may be)”;
 - (b) in paragraph (b), for “subsection (2) of that section” substitute “section 38B(2), 38D(2) and (3) or 38F(2) (as the case may be)”.
- 10 In section 256 (no indemnification for fines or civil penalties), in subsection (1)(b), after “virtue of” insert “section 77A, 77B or 88A of this Act,”.
- 11 (1) Section 310 (admissibility of statements) is amended as follows.
- (2) In subsection (3)(b)—
- (a) after “financial penalty” insert “on a relevant ground”;
 - (b) after “virtue of—” insert—
 - “(ai) section 88A (financial penalties);”;
 - (c) for sub-paragraph (i) (and the “or” following it) substitute—
 - “(i) section 168 of the Pension Schemes Act 1993 (breach of regulations),
 - (ia) section 10 of the Pensions Act 1995 (civil penalties),
 - (ib) paragraph 10 of Schedule 17 to the Pensions Act 2014 (penalties for contravention of regulations etc),
 - (ic) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc);”;
 - (d) for sub-paragraph (ii) substitute—
 - “(ii) section 164 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (breach of regulations),

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- (iii) Article 10 of the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#) (civil penalties),
- (iv) Article 83A of the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#) (financial penalties),
- (v) Article 215G of that Order (penalties for contravention of regulations under Article 215D),
- (vi) paragraph 10 of Schedule 17 to the [Pensions Act \(Northern Ireland\) 2015 \(c. 5 \(N.I.\)\)](#) (penalties for contravention of regulations etc), or
- (vii) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc).”

(3) After subsection (3) insert—

“(3A) For the purposes of this section a financial penalty is payable on a relevant ground if it is payable otherwise than under—

- (a) section 88A as it applies by virtue of—
 - (i) section 80A (financial penalty for providing false or misleading information to Regulator), or
 - (ii) section 80B (financial penalty for providing false or misleading information to trustees or managers), or
- (b) Article 83A of the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#) as it applies by virtue of—
 - (i) Article 75A of that Order (financial penalty for providing false or misleading information to Regulator), or
 - (ii) Article 75B of that Order (financial penalty for providing false or misleading information to trustees or managers).”

(4) In subsection (4), in the definition of “information requirement”, after paragraph (c) insert—

“(“ca) section 72A (requirement to attend interview etc);”.

12 (1) Section 316 (Parliamentary control of subordinate legislation) is amended as follows.

(2) In subsection (2) (regulations and orders subject to affirmative procedure), after paragraph (za) insert—

- “(zaa) regulations under section 38E(2)(a) (section 38 contribution notice: constitution of resources of employer);
- (zab) regulations under section 38E(2)(b) (section 38 contribution notice: valuation of resources of employer);”.

(3) In subsection (2), after paragraph (zb) insert—

- “(zc) regulations under section 58A(1) (offence of avoidance of employer debt: power to except certain schemes);
- (zd) regulations under section 58B(1) (offence of conduct risking accrued scheme benefits: power to except certain schemes);
- (ze) regulations under section 58C(1) (financial penalty for avoidance of employer debt: power to except certain schemes);
- (zf) regulations under section 58D(1) (financial penalty for conduct risking accrued scheme benefits: power to except certain schemes);

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- (zg) regulations under section 73(5B)(a) (inspection of premises: power to specify provisions by reference to which there may be inspection);
 - (zh) regulations under section 88A(3) (financial penalties: power to amend maximum amount of penalty);”.
- 13 (1) In Schedule 1 (the Pensions Regulator), in Part 4 (proceedings and delegation etc), paragraph 21(2) is amended as follows.
- (2) After paragraph (d) insert—
- “(da) the power to issue a notice under section 72A;
 - (db) the power to issue a fixed penalty notice under section 77A;
 - (dc) the power to issue an escalating penalty notice under section 77B;
 - (dd) the power to require payment of a penalty under section 88A;”.
- (3) After paragraph (o) insert—
- “(p) the power to issue a fixed penalty notice under section 17 of the Pension Schemes Act 2017;
 - (q) the power to issue an escalating penalty notice under section 18 of that Act.”
- 14 In Schedule 2 (the reserved regulatory functions), after paragraph 41 insert—
- “41A The power to require a person to pay a penalty under section 88A.”

Pensions Act 2008 (c. 30)

- 15 The Pensions Act 2008 is amended as follows.
- 16 In section 40 (fixed penalty notices), in subsection (1)—
- (a) omit the “or” after paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of its functions under or by virtue of this Part.”
- 17 In section 41 (escalating penalty notices), in subsection (1)—
- (a) omit the “or” after paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of its functions under or by virtue of this Part.”

Pension Schemes Act 2017 (c. 17)

- 18 The Pension Schemes Act 2017 is amended as follows.
- 19 (1) Section 17 (fixed penalty notice for failure to comply with request for information) is amended as follows.
- (2) In the title, at the end insert “etc”.
- (3) In subsection (1)—
- (a) for “with a” substitute “with—
 - (a) a”;

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- (b) after “Part” insert “, or
 - (b) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of the Regulator’s functions under or by virtue of this Part”.
- 20 (1) Section 18 (escalating penalty notice for failure to comply with request for information) is amended as follows.
- (2) In the title, at the end insert “etc”.
 - (3) In subsection (1)—
 - (a) for “with a” substitute “with—
 - (a) a”;
 - (b) after “notice”)” insert “, or
 - (b) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of the Regulator’s functions under or by virtue of this Part (a “section 72A notice”)”.
 - (4) In subsection (2)(a), after “72 notice” insert “or the section 72A notice”.
 - (5) In subsection (3), after “72 notice” insert “or a section 72A notice”.
 - (6) In subsection (6)—
 - (a) in paragraph (b), after “notice” insert “or the section 72A notice”;
 - (b) in paragraph (e), after “notice” insert “or the section 72A notice”.