



2008 CHAPTER 13

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 2

COMPLIANCE

Reviews and references

Review of notices

- 43.**—(1) The Regulator may review a notice to which this section applies—
- (a) on the written application of the person to whom the notice was issued, or
 - (b) if the Regulator otherwise considers it appropriate.
- (2) This section applies to—
- (a) a compliance notice issued under section 35;
 - (b) a third party compliance notice issued under section 36;
 - (c) an unpaid contributions notice issued under section 37;
 - (d) a fixed penalty notice issued under section 40;
 - (e) an escalating penalty notice issued under section 41.
- (3) Regulations may prescribe the period within which—
- (a) an application to review a notice may be made under subsection (1)(a);
 - (b) a notice may be reviewed under subsection (1)(b).

Changes to legislation: Pensions (No. 2) Act (Northern Ireland) 2008, Cross Heading: Reviews and references is up to date with all changes known to be in force on or before 16 May 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

(4) On a review of a notice, the effect of the notice is suspended for the period beginning when the Regulator determines to carry out the review and ending when the review is completed.

(5) In carrying out a review, the Regulator must consider any representations made by the person to whom the notice was issued.

(6) The Regulator's powers on a review include power to—

- (a) confirm, vary or revoke the notice;
- (b) substitute a different notice.

Modifications etc. (not altering text)

- C1** S. 43 applied (10.8.2021 for specified purposes, 16.3.2022 for specified purposes, 6.4.2022 in so far as not already in operation) by [Pension Schemes Act \(Northern Ireland\) 2021 \(c. 6\), ss. 17\(5\)\(b\), 44\(1\)\(a\)\(iii\)](#) (with transitional provisions in S.R. 2021/234, art. 3); S.R. 2022/110, art. 2(a)(b)
- C2** S. 43 applied (10.8.2021 for specified purposes, 16.3.2022 for specified purposes, 6.4.2022 in so far as not already in operation) by [Pension Schemes Act \(Northern Ireland\) 2021 \(c. 6\), ss. 18\(7\)\(b\), 44\(1\)\(a\)\(iii\)](#) (with transitional provisions in S.R. 2021/234, art. 3); S.R. 2022/110, art. 2(a)(b)
- C3** S. 43 applied (1.9.2021 for specified purposes, 1.10.2021 in so far as not already in operation) by S.I. 2005/255 (N.I. 1), art. 72A(5)(b) (with art. 72A(6)) (as inserted by [Pension Schemes Act 2021 \(c. 1\), s. 131\(2\)\(b\), Sch. 8 para. 11](#); S.R. 2021/240, art. 2(1)(f); S.R. 2021/271, art. 2(5)(c) (with art. 5))
- C4** S. 43 applied (1.9.2021 for specified purposes, 1.10.2021 in so far as not already in operation) by S.I. 2005/255 (N.I. 1), art. 72B(7)(b) (with art. 72B(8)) (as inserted by [Pension Schemes Act 2021 \(c. 1\), s. 131\(2\)\(b\), Sch. 8 para. 11](#); S.R. 2021/240, art. 2(1)(f); S.R. 2021/271, art. 2(5)(c) (with art. 5))

Commencement Information

- I1** S. 43 partly in force; s. 43 in force for certain purposes at Royal Assent see s. 118(2)
- I2** S. 43 in operation at 30.6.2012 in so far as not already in operation by [S.R. 2012/266, art. 2, Sch. Pt. 1](#)

References to ^{F1}First-tier Tribunal or Upper Tribunal

44.—(1) A person to whom a notice is issued under section 40 or section 41 may, if one of the conditions in subsection (2) is satisfied, make a reference to ^{F2}the Tribunal] in respect of—

- (a) the issue of the notice;
- (b) the amount of the penalty payable under the notice.

(2) The conditions are—

- (a) that the Regulator has completed a review of the notice under section 43;

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(b) that the person to whom the notice was issued has made an application for the review of the notice under section 43(1)(a) and the Regulator has determined not to carry out such a review.

(3) On a reference to [^{F3}the Tribunal] in respect of a notice, the effect of the notice is suspended for the period beginning when the Tribunal receives notice of the reference and ending—

- (a) when the reference is withdrawn or completed, or
- (b) if the reference is made out of time, on the Tribunal determining not to allow the reference to proceed.

(4) For the purposes of subsection (3), a reference is completed when—

- (a) the reference has been determined,
- (b) the Tribunal has remitted the matter to the Regulator, and
- (c) any directions of the Tribunal for giving effect to its determination have been complied with.

[^{F4}(4A) In this section “the Tribunal”, in relation to a reference under this section, means—

- (a) the Upper Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the Upper Tribunal is to hear the reference;
- (b) the First-tier Tribunal, in any other case.]

^{F5}(5)

^{F6}(6)

Textual Amendments

- F1** S. 44: words in heading substituted (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(1), 5(2), **Sch. 1 para. 31(a)** (with Sch. 2); S.R. 2010/101, **art. 2**
- F2** Words in s. 44(1) substituted (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(1), 5(2), **Sch. 1 para. 31(b)** (with Sch. 2); S.R. 2010/101, **art. 2**
- F3** Words in s. 44(3) substituted (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(1), 5(2), **Sch. 1 para. 31(b)** (with Sch. 2); S.R. 2010/101, **art. 2**
- F4** S. 44(4A) inserted (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(1), 5(2), **Sch. 1 para. 31(c)** (with Sch. 2); S.R. 2010/101, **art. 2**
- F5** S. 44(5) repealed (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(3), 5(2), **Sch. 3** (with Sch. 2); S.R. 2010/101, **art. 2**
- F6** S. 44(6) repealed (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(3), 5(2), **Sch. 3** (with Sch. 2); S.R. 2010/101, **art. 2**

Changes to legislation: *Pensions (No. 2) Act (Northern Ireland) 2008, Cross Heading: Reviews and references is up to date with all changes known to be in force on or before 16 May 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*

Modifications etc. (not altering text)

- C5** S. 44 applied (10.8.2021 for specified purposes, 16.3.2022 for specified purposes, 6.4.2022 in so far as not already in operation) by [Pension Schemes Act \(Northern Ireland\) 2021 \(c. 6\)](#), **ss. 17(5)(c)**, 44(1)(a)(iii) (with transitional provisions in S.R. 2021/234, [art. 3](#)); S.R. 2022/110, [art. 2\(a\)\(b\)](#)
- C6** S. 44 applied (10.8.2021 for specified purposes, 16.3.2022 for specified purposes, 6.4.2022 in so far as not already in operation) by [Pension Schemes Act \(Northern Ireland\) 2021 \(c. 6\)](#), **ss. 18(7)(c)**, 44(1)(a)(iii) (with transitional provisions in S.R. 2021/234, [art. 3](#)); S.R. 2022/110, [art. 2\(a\)\(b\)](#)
- C7** S. 44 applied (1.9.2021 for specified purposes, 1.10.2021 in so far as not already in operation) by S.I. 2005/255 (N.I. 1), [art. 72A\(5\)\(c\)](#) (with [art. 72A\(6\)](#)) (as inserted by [Pension Schemes Act 2021 \(c. 1\)](#), [s. 131\(2\)\(b\)](#)), **Sch. 8 para. 11**; S.R. 2021/240, [art. 2\(1\)\(f\)](#); S.R. 2021/271, [art. 2\(5\)\(c\)](#) (with [art. 5](#))
- C8** S. 44 applied (1.9.2021 for specified purposes, 1.10.2021 in so far as not already in operation) by S.I. 2005/255 (N.I. 1), [art. 72B\(7\)\(c\)](#) (with [art. 72B\(8\)](#)) (as inserted by [Pension Schemes Act 2021 \(c. 1\)](#), [s. 131\(2\)\(b\)](#)), **Sch. 8 para. 11**; S.R. 2021/240, [art. 2\(1\)\(f\)](#); S.R. 2021/271, [art. 2\(5\)\(c\)](#) (with [art. 5](#))

Commencement Information

- I3** S. 44 in operation at 30.6.2012 by S.R. 2012/266, [art. 2](#), **Sch. Pt. 2**

Changes to legislation:

Pensions (No. 2) Act (Northern Ireland) 2008, Cross Heading: Reviews and references is up to date with all changes known to be in force on or before 16 May 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 Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 24\(1\)\(c\) inserted by 2016 c. 1 \(N.I.\) Sch. 2 para. 39\(2\)\(d\)](#)