

*These notes refer to the Pension Schemes Act (Northern Ireland)
2021 (c.6) which received Royal Assent on 9 August 2021*

Pension Schemes Act (Northern Ireland) 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Master Trusts

Triggering events: continuity

Section 31 and Schedule 1: Pause orders

This section creates a power for the Pensions Regulator to pause certain Master Trust activities, once that Master Trust has experienced a triggering event (section 21). The power may only be exercised if it will help (subsection (3)) the trustees follow their implementation strategy (sections 26 and 27), or if the Pensions Regulator believes that doing so is necessary to protect the interests of the generality of the scheme members and that there is an immediate risk to the interests of members under the scheme or the assets of the scheme (subsection (4)).

A pause order may prevent a scheme from carrying out any or all of a number of actions which are specified in subsection (5). These include accepting new members, making payments, accepting contributions and discharging benefits.

The pause may relate to all such actions, or those related to specified members, employers, payments or groups of such actions.

There is further provision about pause orders in Schedule 1.

Paragraph 1 of Schedule 1 sets out the consequences of a pause order on a Master Trust. Sub-paragraph (1) states that any action in breach of a pause order is void, that is, it has no legal effect.

A scheme which is under a pause order may still be wound up in accordance with Article 11 of the Pensions (Northern Ireland) Order 1995 (sub-paragraph (2)).

Sub-paragraph (3) includes a provision that if a pause order prevents a Master Trust from accepting any contributions then affected contributions are treated as if they are not payable. The pause order may include provisions under section 31(5) that where such contributions have already been deducted from pay, they are to be repaid to affected scheme members.

Sub-paragraphs (4) and (5) create exceptions to a pause order to allow schemes to follow the requirements of pension sharing and pension earmarking orders. These orders are placed on member assets following divorce, dissolution and nullity proceedings in accordance with the relevant pieces of legislation in England and Wales, Scotland and Northern Ireland.

Sub-paragraphs (6) and (7) allow the Department to make regulations modifying specified areas of existing legislation where there is a pause order preventing transfers of members rights to ensure that the legislation works as intended.

Sub-paragraphs (8) to (10) apply the civil penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 in relation to non-compliance with these provisions.

Sub-paragraph (11) provides that regulations made under this paragraph are subject to negative resolution.

Paragraph 2 states that any pause can take effect for a maximum of three months (sub-paragraph (1)), and can be extended for further periods of up to three months (sub-paragraph (2)). A pause will automatically end if a triggering period ends while it is in force (sub-paragraph (3)).

Paragraph 3 allows the Pensions Regulator to validate any action that is taken in contravention of a pause order on application from the trustees, or a person directly affected by the action.

Paragraph 4 provides for notifications between various parties in respect of a pause order, or validated action in contravention of a pause order under paragraph 3. The Pensions Regulator is required to inform the trustees, scheme strategist and scheme funder of any pause order as soon as is practicable (sub-paragraph (2)). The Pensions Regulator may also require the trustees to inform employers and members of the pause order within a specified time period. This may apply to all employers and members, or only those affected by the pause (sub-paragraph (3)).

Sub-paragraph (5) provides that civil penalties under Article 10 of the Pensions (Northern Ireland) Order 1995 apply to any trustee who has not taken all reasonable steps to ensure compliance with sub-paragraph (3).

Paragraph 5 allows pause orders and orders under paragraph 2, 3 or 4 to override existing law or scheme rules which would operate to prevent the order being made.