

2021 No. 240 (C. 8)

PENSIONS

**The Pension Schemes Act 2021 (Commencement No. 1) Order
(Northern Ireland) 2021**

Made - - - - *26th August 2021*

The Department for Communities makes the following Order in exercise of the powers conferred by section 131(2) and (4) of the Pension Schemes Act 2021(a).

Citation and interpretation

1.—(1) This Order may be cited as the Pension Schemes Act 2021 (Commencement No. 1) Order (Northern Ireland) 2021.

(2) In this Order any reference to a numbered section or Schedule is to the section of, or Schedule to, the Pension Schemes Act 2021.

Appointed day

2.—(1) The day appointed for the coming into operation of—

- (a) section 117(a) (the Pensions Regulator: Northern Ireland) and paragraph 1 of Schedule 8 (amendments of the Pensions (Northern Ireland) Order 2005), in so far as they relate to the provisions specified in sub-paragraphs (c) to (f);
- (b) section 129(b) (further provision relating to pension schemes: Northern Ireland) and paragraph 13(1) of Schedule 11 (other provision), in so far as they relate to the provision specified in sub-paragraph (g);
- (c) in Schedule 8, paragraph 2(3) (Article 34 contribution notice: meaning of “employer resources test”);
- (d) in Schedule 8, paragraph 8(1) (duty to give notices and statements to the Regulator in respect of certain events);
- (e) in Schedule 8, paragraph 9(1) (interviews);
- (f) in Schedule 8, paragraph 11 (fixed penalty notices and escalating penalty notices), and
- (g) in Schedule 11, paragraph 13(2) and (6) (transfer rights: exercise of right to cash equivalent),

for the purpose only of authorising the making of regulations, is 1st September 2021.

(2) The day appointed for the coming into operation of—

- (a) section 117(b) and paragraphs 16 and 26(1) of Schedule 8 (minor and consequential amendments), in so far as they relate to the provisions specified in sub-paragraphs (c) and (d);

- (b) section 129(b) in so far as it relates to the provisions specified in sub-paragraphs (e) and (f);
- (c) in Schedule 8, paragraph 22(a) (amendment to Article 85(2) of the Pensions (Northern Ireland) Order 2005);
- (d) in Schedule 8, paragraph 26(2) (amendment to Article 288(3) of the Pensions (Northern Ireland) Order 2005);
- (e) in Schedule 11, paragraph 12 (climate change risk), and
- (f) in Schedule 11, paragraph 14 (the Pension Protection Fund: modification of provisions relating to pensionable service),

is 1st September 2021.

Sealed with the Official Seal of the Department for Communities on 26th August 2021

(L.S.)

Anne McCleary

A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the coming into operation of certain provisions of the Pension Schemes Act 2021 (“the Act”) in accordance with Article 2.

Article 2(1) brings the following provisions of the Act, for the purpose only of authorising the making of regulations, into operation on 1st September 2021—

paragraph 2(3) of Schedule 8 (Article 34 contribution notice: meaning of “employer resources test”) which inserts Articles 34E and 34F into the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1) (“the 2005 Order”) to introduce the employer resources test in connection with the contribution notice regime set out in Articles 34 to 38 of the 2005 Order. Article 34E(2) confers powers on the Department for Communities to prescribe in regulations what constitutes the resources of the employer and how the value of the resources of the employer is to be determined, calculated and verified;

paragraph 8(1) of Schedule 8 (duty to give notices and statements to the Regulator in respect of certain events) which inserts Article 64A into the 2005 Order to introduce powers to prescribe events in respect of which there is a duty to give notices and accompanying statements to the Pensions Regulator;

paragraph 9(1) of Schedule 8 (interviews) which inserts Article 67A into the 2005 Order to introduce a power to enable the Pensions Regulator to require individuals to attend an interview. Article 67A(2) confers a power on the Department for Communities to prescribe in regulations information that must be contained in a notice issued under Article 67A(1) of the 2005 Order;

paragraph 11 of Schedule 8 (fixed penalty notices and escalating penalty notices) which inserts Articles 72A and 72B into the 2005 Order to introduce powers to enable the Pensions Regulator to impose fixed penalty notices and escalating penalty notices. Articles 72A(3)(a) and 72B(5)(a) confer powers on the Department for Communities to prescribe in regulations the level of the penalties for the fixed penalty notices and escalating penalty notices;

paragraph 13(2) of Schedule 11 (transfer rights: exercise of right to cash equivalent) which inserts subsections (6ZA) to (6ZC) into section 91 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49). Subsections (6ZA) to (6ZC) confer powers on the Department for Communities to prescribe conditions which must be met before a member will have a right to transfer of accrued pension rights and to make regulations requiring trustees or managers of occupational or personal pension schemes to notify members of

conditions which have been prescribed. Paragraph 13(6) of Schedule 11 inserts subsections (5A) to (5C) into section 97F of the Pension Schemes (Northern Ireland) Act 1993 to make similar provision with regard to rights to transfer pension credit benefit,

and sections 117(a) (the Pensions Regulator: Northern Ireland) and 129(b) (further provision relating to pension schemes: Northern Ireland), paragraph 1 of Schedule 8 (amendments of the Pensions (Northern Ireland) Order 2005) and paragraph 13(1) of Schedule 11 (other provision) in so far as they relate to those provisions.

Article 2(2) brings the following provisions of the Act into operation on 1st September 2021—

paragraph 22(a) of Schedule 8 which amends Article 85(2) of the 2005 Order (codes of practice) to require the Pensions Regulator to issue a code of practice relating to the “employer insolvency test” and “employer resources test” introduced by paragraph 2(3) of Schedule 8;

paragraph 26(2) of Schedule 8 which amends Article 288(3) of the 2005 Order (Assembly etc. control of orders and regulations) so as to include regulations under Articles 34E(2)(a) (Article 34 contribution notice: constitution of resources of employer) and 34E(2)(b) (Article 34 contribution notice: valuation of resources of employer) in the list of regulations and orders under the 2005 Order which are subject to the confirmatory procedure;

paragraph 12 of Schedule 11 (climate change risk) which inserts Articles 41A to 41C into the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) to confer power on the Department for Communities to make regulations in relation to governance and reporting of climate change risk by trustees and managers of occupational pension schemes, to issue related statutory guidance and to make regulations in relation to compliance, including regulations conferring powers on the Pensions Regulator. Paragraph 12 also makes consequential amendments to other provisions in the Pensions (Northern Ireland) Order 1995;

paragraph 14 of Schedule 11 (the Pension Protection Fund: modification of provisions relating to pensionable service) remedies certain consequences of the judgment in the case of *Anthony Beaton v The Board of the Pension Protection Fund* [2017] EWHC 2623 and that relate to what is referred to as “pensionable service” (see paragraph 36 of Schedule 6 to the 2005 Order). It does that by treating the amendments made to the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 149) and the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 91) by the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 (S.R. 2018 No. 165), as if those amendments always had effect. The amendments are therefore treated as covering payments which have been made from the time the Pension Protection Fund was established,

and sections 117(b) and 129(b) and paragraphs 16 and 26(1) of Schedule 8 (minor and consequential amendments) in so far as they relate to those provisions.

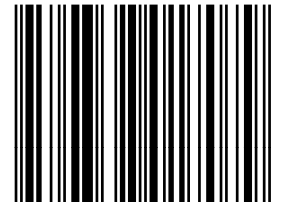
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