



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART VI

#### FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

#### <sup>F1</sup>111 Voluntary contributions.

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#### Textual Amendments

**F1** S. 111 repealed (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), ss. 267(1), 322(1), [Sch. 13](#) (with s. 313); [S.I. 2006/560](#), art. 2(3), [Sch. Pt. 3](#)

#### <sup>F2</sup>111A Monitoring of employers' payments to personal pension schemes.

- (1) This section applies where—
  - (a) an employee is a member of a personal pension scheme; and
  - (b) direct payment arrangements exist between the employee and his employer.
- (2) In this section “direct payment arrangements” means arrangements under which contributions fall to be paid by or on behalf of the employer towards the scheme—
  - (a) on the employer’s own account (but in respect of the employee); or
  - (b) on behalf of the employee out of deductions from the employee’s earnings.
- <sup>F3</sup>(3) The trustees or managers of the scheme must monitor the payment of contributions by or on behalf of the employer under the direct payment arrangements.
- (4) The trustees or managers may request the employer to provide them, (or arrange for them to be provided) with the payment information specified in the request.
- (5) For the purposes of subsection (4) “payment information” is information required by the trustees or managers to enable them to discharge the duty imposed by subsection (3).

*Status: Point in time view as at 03/01/2012.*

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- (6) The employer must comply with a request under subsection (4) within a reasonable period.
- (7) Where, as a result of the employer's failure to so comply, the trustees or managers are unable to discharge the duty imposed by subsection (3), they must give notice to that effect to the Regulatory Authority within a reasonable period.
- (7A) Where—
- (a) a contribution payable under the direct payment arrangements has not been paid on or before its due date, and
  - (b) the trustees or managers have reasonable cause to believe that the failure to pay the contribution is likely to be of material significance in the exercise by the Regulatory Authority of any of their functions,
- they must give notice to that effect to the Regulatory Authority and the employee within a reasonable period after the due date.]
- (8) If—
- (a) the employer fails to take all such steps as are reasonable to secure compliance with [<sup>F4</sup>subsection (6) and as a result the trustees or managers of the scheme are unable to discharge the duty imposed by subsection (3)], or
  - (b) a contribution payable under the direct payment arrangements is not paid to the trustees or managers of the scheme on or before its due date,
- section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) applies to the employer.
- (9) If [<sup>F5</sup>subsection (7) or (7A)] is not complied with, section 10 of the Pensions Act 1995 applies to any trustee or manager of the scheme who has failed to take all such steps as are reasonable to secure compliance.
- <sup>F6</sup>(10) . . . . .
- (11) A person shall not be required by virtue of subsection (8)(b) above to pay a penalty under section 10 of the Pensions Act 1995 in respect of a failure if in respect of that failure he has been—
- (a) required to pay a penalty under that section by virtue of section 3(7) of the Welfare Reform and Pensions Act 1999 (failures in respect of stakeholder pensions), or
  - (b) convicted of an offence under subsection (12) below.
- (12) A person is guilty of an offence if he is knowingly concerned in the fraudulent evasion of the direct payment arrangements so far as they are arrangements for the payment by him or any other person of any such contribution towards the scheme as is mentioned in subsection (2)(b).
- (13) A person guilty of an offence under subsection (12) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or both.
- (14) No prosecution shall be brought against the Crown for an offence under subsection (12), but that subsection applies to persons in the public service of the Crown as to other persons.

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- (15) In this section “due date”, in relation to a contribution payable under the direct payment arrangements, means—
- (a) if the contribution falls to be paid on the employer’s own account, the latest day under the arrangements for paying it;
  - (b) if the contribution falls to be paid on behalf of the employee, the last day of a prescribed period.
- (16) Regulations may provide for this section to apply with such modifications as may be prescribed in a case where—
- (a) the direct payment arrangements give effect to a requirement arising under subsection (5) of section 3 of the Welfare Reform and Pensions Act 1999 (deduction and payment of employee’s contributions to stakeholder scheme), and
  - (b) in accordance with regulations under that subsection, that requirement is for the employer to pay contributions to a person prescribed by such regulations (instead of to the trustees or managers of the scheme).
- (17) Nothing in this section shall be taken as varying the provisions of the direct payment arrangements or as affecting their enforceability.

[ In this section, “employee” includes a jobholder within the meaning of section 1 of <sup>F7</sup>(18) the Pensions Act 2008 and “employer” is to be read accordingly.]]

**Textual Amendments**

- F2** Ss. 111A, 111B inserted (11.11.1999 for specified purposes, 6.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 9, 89(5)(a); S.I. 2000/2958, art. 2(1)
- F3** S. 111A(3)-(7A) substituted for s. 111A(3)-(7) (6.4.2006) by Pensions Act 2004 (c. 35), ss. 268(2), 322(1) (with s. 313); S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F4** Words in s. 111A(8) substituted (6.4.2006) by Pensions Act 2004 (c. 35), ss. 268(3), 322(1) (with s. 313); S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F5** Words in s. 111A(9) substituted (6.4.2006) by Pensions Act 2004 (c. 35), ss. 268(4), 322(1) (with s. 313); S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F6** S. 111A(10) repealed (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 16, Sch. 13; S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F7** S. 111A(18) inserted (3.1.2012 for specified purposes) by Pensions Act 2008 (c. 30), ss. 49, 149(1); S.I. 2011/3033, art. 2(a)

<sup>F8</sup>**111B Obtaining information for purposes of section 111A and corresponding Northern Ireland legislation.**

**Textual Amendments**

- F8** S. 111B repealed (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 13; S.I. 2006/560, art. 2(3), Sch. Pt. 3

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## **F<sup>9</sup> 112 Restrictions on investment of scheme’s resources in employer-related assets.**

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### **Textual Amendments**

**F<sup>9</sup>** S. 112 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 26, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

### **Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## **113 Disclosure of information about schemes to members etc.**

- (1) The Secretary of State may by regulations specify requirements to be complied with in the case of an occupational pension scheme or a personal pension scheme with respect to keeping the persons mentioned in subsection (2) informed—
- (a) of its constitution;
  - (b) of its administration and finances;
  - (c) of the rights and obligations that arise or may arise under it;
  - [<sup>F10</sup>(ca) of the pensions and other benefits an entitlement to which would be likely to accrue to the member, or be capable of being secured by him, in respect of the rights that may arise under it; and]
  - (d) of any other matters that appear to the Secretary of State to be relevant to occupational pension schemes or personal pension schemes in general or to schemes of a description to which the scheme in question belongs.
- (2) The persons referred to in subsection (1) are—
- (a) members and, in the case of an occupational pension scheme, prospective members of the scheme;
  - (b) spouses [<sup>F11</sup>or civil partners] of members and, in the case of an occupational pension scheme, of prospective members;
  - (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;
  - (d) in the case of an occupational pension scheme, independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme;
  - [<sup>F12</sup>(e) persons of prescribed descriptions.]
- (3) Without prejudice to the generality of section 182(2), the regulations may distinguish between—
- (a) cases in which information is to be given as of course; and
  - (b) cases in which information need only be given on request or in other prescribed circumstances.
- [<sup>F13</sup>(3A) The regulations may provide for the information that must be given to be determined, in whole or part, by reference to guidance which [<sup>F14</sup>is prepared and from time to time revised by a prescribed body].
- (3B) The regulations may, in relation to cases where a scheme is being wound up, contain—

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- (a) provision conferring power on the Regulatory Authority, at times before the period expires, to extend any period specified in the regulations as the period within which a requirement imposed by the regulations must be complied with; and
  - (b) provision as to the contents of any application for the exercise of such a power and as to the form and manner in which, and the time within which, any such application must be made.]
- (4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d).

#### Textual Amendments

- F10** S. 113(1)(ca) substituted for word (1.1.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 52(1)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(3)(a)
- F11** Words in s. 113(2)(b) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 14**
- F12** S. 113(2)(e) inserted (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 17**; S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- F13** S. 113(3A)(3B) inserted (1.1.2001 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 52(2)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(3)(a)
- F14** Words in s. 113(3A) substituted (1.11.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(2), **Sch. 5 para. 6**; S.I. 2007/3063, art. 2(b)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

### [<sup>F15</sup>113A Disclosure of information about transfers etc

Regulations may provide that, where—

- (a) a payment is made out of an occupational pension scheme to the trustees or managers of another occupational pension scheme, and
- (b) transfer credits are allowed to a member of that other scheme in respect of the payment,

the trustees or managers of the first scheme must, in prescribed circumstances and in the prescribed manner, provide to the trustees or managers of the other scheme prescribed information relating to the payment.]

#### Textual Amendments

- F15** S. 113A inserted (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 18**; S.I. 2005/3331, art. 2(5)(a)(b), **Sch. Pt. 5**

### <sup>F16</sup>114 Additional documents for members etc. and Registrar.

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**Textual Amendments**

**F16** S. 114 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 27, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 7)

**115 Powers as respects failure to comply with information requirements.**

- (1) If the trustees or managers of an occupational pension scheme or a personal pension scheme, having made default in complying with regulations under section 113 or 114(1)(b), fail to make good the default within 14 days after the service on them of a notice requiring them to do so, an order may be made under this subsection.
- (2) The Secretary of State may by regulations specify forms for notices under subsection (1).
- (3) An order under subsection (1) is an order directing the trustees or managers to make good the default within such time as may be specified in the order.
- (4) The power to make such an order shall be exercisable by the appropriate court on the application of any person mentioned in subsection (5).
- (5) The persons referred to in subsection (4) are—
  - (a) the Secretary of State;
  - (b) any person authorised by the Secretary of State to make an application under this section; and
  - (c) any aggrieved person.
- (6) In this section “the appropriate court” means—
  - (a) in England and Wales, a county court; and
  - (b) in Scotland, the sheriff.
- (7) An application to the sheriff shall be made by summary application.
- (8) An order under this section may provide that all costs (or, in Scotland, expenses) of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

<sup>F17</sup> **116 Regulations as to auditors.**

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**Textual Amendments**

**F17** S. 116 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 28, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II

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## **117 Regulations as to form and content of advertisements.**

Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

### **Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## **<sup>F18</sup>118 Equal access requirements.**

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### **Textual Amendments**

**F18** S. 118 repealed (1.1.1996) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 29, [Sch. 7 Pt. I](#); [S.I. 1995/3104](#), art. 2(3)

**Status:**

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