



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART VI

FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

107 Voluntary contributions.

- (1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that an occupational pension scheme or a personal pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—
 - (a) must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
 - (b) must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
 - (c) must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him; and
 - (d) must secure that the value of the additional benefits is reasonable, having regard—
 - (i) to the amount of the voluntary contributions; and
 - (ii) to the value of the other benefits under the scheme.
- (2) The requirements specified in this section are in this Act referred to as “the voluntary contributions requirements”.
- (3) This section does not apply in relation to any pension payable under—
 - (a) Part II of the ^{M1}Judicial Pensions Act (Northern Ireland) 1951;
 - (b) Part XIII of the ^{M2}County Courts Act (Northern Ireland) 1959;
 - (c) the ^{M3}Resident Magistrates’ Pensions Act (Northern Ireland) 1960;
 - (d) section 2 of the ^{M4}Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;

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- (e) the ^{M5}Judicial Pensions Act 1981; or
 - (f) the ^{M6}Judicial Pensions and Retirement Act 1993;
- and accordingly none of the provisions of this Act shall, in so far as it has effect in relation to the voluntary contributions requirements, apply to any such pension.

Marginal Citations

- M1** 1951 c. 20 (N.I.).
- M2** 1959 c. 25 (N.I.).
- M3** 1960 c. 2 (N.I.).
- M4** 1969 c. 7 (N.I.).
- M5** 1981 c. 20.
- M6** 1993 c. 8.

[^{F1}107A 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.
- (3) The employer must secure that there is prepared, maintained and from time to time revised a record of the direct payment arrangements which complies with subsection (4).
- (4) The record must—
 - (a) show the rates and due dates of contributions payable under the direct payment arrangements, and
 - (b) satisfy prescribed requirements.
- (5) The employer must, within the prescribed period after the preparation or any revision of the record, send a copy of the record or (as the case may be) of the revised record to the trustees or managers of the scheme.
- (6) Except in prescribed circumstances, the trustees or managers of the scheme must, where any contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date, give notice of that fact, within the prescribed period, to the Regulatory Authority and the employee.
- (7) The trustees or managers of the scheme must before the end of prescribed intervals send the employee a statement setting out the amounts and dates of the payments made under the direct payment arrangements during a prescribed period.
- (8) If—
 - (a) the employer fails to take all such steps as are reasonable to secure compliance with subsection (3) or (5), 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,

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Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) applies to the employer.

- (9) If subsection (6) or (7) is not complied with, Article 10 of the Pensions (Northern Ireland) Order 1995 applies to any trustee or manager of the scheme who has failed to take all such steps as are reasonable to secure compliance.
- (10) If—
- (a) subsection (6) or (7) is not complied with, and
 - (b) the scheme—
 - (i) is established under a trust, and
 - (ii) is or has been registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (stakeholder schemes),Article 3 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to remove trustees) applies to any trustee of the scheme who has failed to take all such steps as are reasonable to secure compliance.
- (11) A person shall not be required by virtue of subsection (8)(b) to pay a penalty under Article 10 of the Pensions (Northern Ireland) Order 1995 in respect of a failure if in respect of that failure he has been—
- (a) required to pay a penalty under that Article by virtue of Article 5(7) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (failures in respect of stakeholder pensions), or
 - (b) convicted of an offence under subsection (12).
- (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.
- (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 paragraph (5) of Article 5 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (deduction and payment of employee’s contributions to stakeholder scheme), and

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- (b) in accordance with regulations under that paragraph, 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.]

Textual Amendments

F1 Ss.107A, 107B inserted (1.12.1999 for certain purposes and otherwise 6.4.2001) by [S.I. 1999/3147 \(N.I. 11\)](#), [arts. 1\(5\)\(a\), 10](#) (with transitional provisions in [art. 75\(1\)](#)); [S.R. 2000/332](#), [art. 2\(1\)](#)

^{F2}**107B Obtaining information for purposes of section 107A and corresponding legislation in Great Britain.**

- (1) Any person appearing to the Regulatory Authority to be a person who holds, or is likely to hold, information which is relevant to the issue—
- (a) whether any provision made by or under section 107A is being, or has been, complied with by an employer or the trustees or managers of a personal pension scheme,
 - (b) whether, in the case of any direct payment arrangements existing between an employee and his employer, there has been such a failure to pay a contribution as is mentioned in subsection (8)(b) of that section, or
 - (c) whether an offence has been committed under subsection (12) of that section in relation to any such arrangements,
- must, if required to do so by the Regulatory Authority by notice in writing, produce any document which is so relevant.
- (2) To comply with subsection (1) the document must be produced in such a manner, at such a place and within such a period as may be specified in the notice.
- (3) An inspector may, for the purposes of investigating any of the matters set out in subsection (1)(a) to (c), at any reasonable time enter premises liable to inspection and, while there—
- (a) may make such examination and inquiry as may be necessary for such purposes,
 - (b) may require any person on the premises to produce for his inspection, or secure the production for his inspection of, any document relevant—
 - (i) to compliance with any provision made by or under section 107A, or with the direct payment arrangements, or
 - (ii) to the issue whether an offence has been committed under subsection (12) of that section in relation to those arrangements, and
 - (c) may, as to any matter so relevant, examine, or require to be examined, either alone or in the presence of another person, any person on the premises whom he has reasonable cause to believe to be able to give information relevant to that matter.
- (4) An inspector applying for admission to any premises in pursuance of subsection (3) must, if so required, produce his certificate of appointment.
- (5) For the purposes of subsection (3) premises are liable to inspection if the inspector has reasonable grounds to believe that—

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- (a) employees of the employer are employed there,
 - (b) documents relevant to the administration of—
 - (i) the employer’s business,
 - (ii) the direct payment arrangements, or
 - (iii) the scheme to which those arrangements relate, are kept there, or
 - (c) either of the following is being carried out there, namely—
 - (i) the administration of the employer’s business, the arrangements or the scheme, or
 - (ii) work connected with the administration of the employer’s business, the arrangements or the scheme,unless the premises are a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (6) Article 98 of the Pensions (Northern Ireland) Order 1995 (warrants) shall have effect as if references to Article 96(1) or 97(1)(b) of that Order included references to subsection (1) or (3)(b).
- (7) Articles 99 to 101 of that Order (penalties, savings and reports) shall have effect as if references which are or include references to Article 96 or 97 of that Order included references to this section.
- (8) In this section—
“direct payment arrangements” has the same meaning as in section 107A;
“document” includes information recorded in any form, and any reference to production of a document, in relation to information recorded otherwise than in legible form, is to producing a copy of the information in legible form;
“inspector” means a person appointed by the Regulatory Authority as an inspector.
- (9) References in this section to, or to any provision of, section 107A include references to corresponding provisions of legislation in Great Britain; and in this section as it has effect in relation to those corresponding provisions, “employee” and
“employer” have the same meaning as they have for the purposes of those provisions.

Textual Amendments

F2 Ss.107A, 107B inserted (1.12.1999 for certain purposes and otherwise 6.4.2001) by [S.I. 1999/3147 \(N.I. 11\)](#), [arts. 1\(5\)\(a\), 10](#) (with transitional provisions in [art. 75\(1\)](#)); [S.R. 2000/332](#), [art. 2\(1\)](#)

F3 108

Textual Amendments

F3 S. 108 repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [arts. 119, 168](#), [Sch. 1 para. 17](#), [Sch. 5 Pt. I](#) (with [art. 118\(5\)\(6\)](#)); [S.R. 1997/192](#), [art. 2\(b\)](#)

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109 Disclosure of information about schemes to members, etc.

- (1) The Department 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;
 - [^{F4}(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 Department 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 [^{F5}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.
- (3) Without prejudice to the generality of section 177(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.
- [^{F6}(3A) The regulations may provide for the information that must be given to be determined, in whole or part, by reference to guidance which—
 - (a) is prepared and from time to time revised by a prescribed body; and
 - (b) is for the time being approved by the Department.]
- [^{F6}(3B) The regulations may, in relation to cases where a scheme is being wound up, contain—
 - (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).

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Textual Amendments

- F4** S. 109(1)(ca) substituted (1.1.2001) for word in s. 109(1)(c) by 2000 c. 4 (N.I.), s. 68(2) (with s. 66(6)); S.R. 2000/374, art. 2, Sch. Pt. II
- F5** Words in s. 109(2)(b) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), Sch. para. 15
- F6** S. 109(3A)(3B) inserted (1.1.2001 except as regards the insertion of subsection (3B), as to which *prosp.*) by 2000 c. 4 (N.I.), ss. 48(2), 68(2) (with s. 66(6)); S.R. 2000/374, art. 2, Sch. Pt. II

[^{F7}109A 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

- F7** S. 109A inserted (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), Sch. 10 para. 14; S.R. 2005/543, art. 2(5), Sch. Pt. 5

^{F8}110

Textual Amendments

- F8** S. 110 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 18, Sch. 5 Pt. I (with art. 118(5)(6)); S.R. 1997/192, art. 2(b)

111 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 109^{F9} . . ., 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 Department 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 a county court on the application of any person mentioned in subsection (5).
- (5) The persons referred to in subsection (4) are—

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- (a) the Department;
 - (b) any person authorised by the Department to make an application under this section; and
 - (c) any aggrieved person.
- (6) An order under this section may provide that all costs of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.

Textual Amendments

F9 Words in s. 111(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 19, **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1997/192, **art. 2(b)**

^{F10}**112**

Textual Amendments

F10 S. 112 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 20, **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1997/192, **art. 2(b)**

113 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.

^{F11}**114**

Textual Amendments

F11 S. 114 repealed (1.1.1996) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 21, **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1995/477, art. 2(b), **Sch. Pt. II**

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