



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART VI

#### FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

#### <sup>F1</sup>107 Voluntary contributions.

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#### Textual Amendments

**F1** S. 107 repealed (6.4.2006) by *The Pensions (Northern Ireland) Order 2005* (S.I. 2005/255 (N.I. 1)), arts. 1(2), 244(1), **Sch. 11** (with art. 285(5)); S.R. 2006/95, art. 2(c), Sch. Pt. 3

#### [<sup>F2</sup>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.
- [<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.

*Status: Point in time view as at 06/04/2006.*

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- (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).
- (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,
- Article 10 of the Pensions (Northern Ireland) Order 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, 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.
- <sup>F6</sup>(10) .....
- (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.

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- (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
  - (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**

- 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** S. 107A(3)-(7A) substituted for s. 107A(3)-(7) (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), **arts. 1(2), 245(2)** (with art. 285(5)); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F4** Words in s. 107A(8)(a) substituted (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), **arts. 1(2), 245(3)** (with art. 285(5)); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F5** Words in s. 107A(9) substituted (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), **arts. 1(2), 245(4)** (with art. 285(5)); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F6** S. 107A(10) repealed (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), Sch. 10 para. 12, **Sch. 11**; S.R. 2006/95, art. 2(c), Sch. Pt. 3

**<sup>F7</sup>107B Obtaining information for purposes of section 107A and corresponding legislation in Great Britain.**

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**Textual Amendments**

- F7** S. 107B repealed (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), **Sch. 11**; S.R. 2006/95, art. 2(c), Sch. Pt. 3

**<sup>F8</sup>108**

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### Textual Amendments

**F8** 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)

## 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;
  - [<sup>F9</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 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 [<sup>F10</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>F11</sup>(e) persons of prescribed descriptions.]
- (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.
- [<sup>F12</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—
- (a) is prepared and from time to time revised by a prescribed body; and
  - (b) is for the time being approved by the Department.]
- [<sup>F12</sup>(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

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- (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**

- F9** 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**
- F10** 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**
- F11** S. 109(2)(e) added (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), **Sch. 10 para. 13**; S.R. 2006/95, art. 2(c), **Sch. Pt. 3**
- F12** 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**

**[<sup>F13</sup>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**

- F13** 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**

**<sup>F14</sup>110**

**Textual Amendments**

- F14** 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<sup>F15</sup> . . . , 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.

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- (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—
  - (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**  
**F15** 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)**

<sup>F16</sup> **112** .....

**Textual Amendments**  
**F16** 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.

<sup>F17</sup> **114** .....

**Textual Amendments**  
**F17** 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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