



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART VI

#### FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

##### **[<sup>F1</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>F2</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).
- (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.

*Status: Point in time view as at 06/04/2006. This version of this provision has been superseded.*

*Changes to legislation: Pension Schemes (Northern Ireland) Act 1993, Section 107A is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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>F3</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>F4</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>F5</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.

(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.

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- (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

- 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** 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
- F3** 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
- F4** 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
- F5** 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

**Status:**

Point in time view as at 06/04/2006. This version of this provision has been superseded.

**Changes to legislation:**

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