



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Codes of practice

90 Codes of practice

- (1) The Regulator may issue codes of practice—
 - (a) containing practical guidance in relation to the exercise of functions under the pensions legislation, and
 - (b) regarding the standards of conduct and practice expected from those who exercise such functions.
- (2) The Regulator must issue one or more such codes of practice relating to the following matters—
 - (a) what constitutes a “reasonable” period for the purposes of any provision of the pensions legislation (other than any enactment contained in or made by virtue of Part 2) which requires any action to be taken within such a period;
 - [^{F1}(aa) the circumstances in which the Regulator expects to issue contribution notices under section 38 as a result of being of the opinion that the material detriment test [^{F2}, the employer insolvency test or the employer resources test] is met in relation to an act or failure;]
 - (b) the discharge of the duty imposed by section 69 (duty to notify Regulator of certain events);
 - (c) the discharge of the duty imposed by section 70 (duty to report breaches of the law);
 - (d) the discharge of duties imposed on trustees or managers of occupational pension schemes by, or by virtue of, Part 3 (scheme funding);
 - (e) the discharge of the duties imposed by sections 241 and 242 (member-nominated trustees and directors);

Status: Point in time view as at 31/05/2021. This version of this provision has been superseded.

Changes to legislation: Pensions Act 2004, Section 90 is up to date with all changes known to be in force on or before 21 July 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)

- (f) the obligations imposed by sections 247 and 248 (requirements for knowledge and understanding: individual and corporate trustees);
 - (g) the discharge of the duty imposed by section 49(9)(b) of the Pensions Act 1995 (c. 26) (duty of trustees or managers of occupational pension schemes to report material failures by employers to pay contributions deducted from employee’s earnings timeously);
 - (h) the discharge of the duties imposed by sections 67 to 67I of that Act (the subsisting rights provisions);
 - (i) the discharge of the duty imposed by section 88(1) of that Act (duties of trustees and managers of [^{F3}certain schemes] to report failures to pay employer contributions etc timeously);
 - (j) the discharge of the duty imposed by section 111A(7A) of the Pension Schemes Act 1993 (c. 48) (duty of trustees or managers of personal pension schemes to report material failures to pay employer contributions timeously);
 - [^{F4}(ja) the process for making an application for authorisation of a Master Trust scheme under Part 1 of the Pension Schemes Act 2017;
 - (jb) the matters that the Pensions Regulator expects to take into account in deciding whether it is satisfied that a Master Trust scheme meets the authorisation criteria under that Part (see section 5 of the Pension Schemes Act 2017);]
 - [^{F5}(jc) the process for making an application under Part 1 of the Pension Schemes Act 2021 for authorisation of a collective money purchase scheme;
 - (jd) the matters that the Pensions Regulator expects to take into account in deciding whether it is satisfied that a pension scheme meets the authorisation criteria under that Part (see section 9 of the Pension Schemes Act 2021);]
 - (k) such other matters as are prescribed for the purposes of this section.
- (3) The Regulator may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code.
- (4) A failure on the part of any person to observe any provision of a code of practice [^{F6}issued under this section] does not of itself render that person liable to any legal proceedings.
- This is subject to section 13(3)(a) and (8) (power for improvement notice to direct that person complies with code of practice and civil penalties for failure to comply).
- (5) A code of practice issued under this section is admissible in evidence in any legal proceedings and, if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings, it must be taken into account in determining that question.
- (6) In this section—
- “legal proceedings” includes proceedings of the Pensions Ombudsman, proceedings of the Ombudsman for the Board of the Pension Protection Fund and proceedings of the Board of the Pension Protection Fund under section 207 or 208; and
 - “the pensions legislation” means any enactment contained in or made by virtue of—
 - (a) the Pension Schemes Act 1993 (c. 48),
 - (b) Part 1 of the Pensions Act 1995 (c. 26), other than sections 62 to 66A of that Act (equal treatment),

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- (c) Part 1 or section 33 of the Welfare Reform and Pensions Act 1999 (c. 30),
F7 ...
 - (d) this Act.
 - (e) [F8 Schedule 18 to the Pensions Act 2014, F9 ...
 - (f) the Pension Schemes Act 2015][F10, [F11 or]
 - (g) the Pension Schemes Act 2017][F12, or
 - (h) Part 1 of the Pension Schemes Act 2021.]
- (7) Sections 91 and 92 make provision about the procedure to be followed when a code of practice is issued or revoked [F13 under this section].
- [F14 (8) The Regulator may not issue codes of practice under this section in relation to a public service pension scheme (but see section 90A).]

Textual Amendments

- F1 S. 90(2)(aa) inserted (26.11.2008) by Pensions Act 2008 (c. 30), s. 149(2)(3), **Sch. 9 para. 3**
- F2 Words in s. 90(2)(aa) inserted (31.5.2021) by Pension Schemes Act 2021 (c. 1), s. 131(1), **Sch. 7 para. 8(a)**; S.I. 2021/620, reg. 2(2)(d)
- F3 Words in s. 90(2)(i) substituted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(a), **Sch. 2 para. 30(2)** (with s. 87)
- F4 S. 90(2)(ja)(jb) inserted (1.2.2018) by Pension Schemes Act 2017 (c. 17), s. 44(2), **Sch. 3 para. 9(2)**; S.I. 2018/62, reg. 2
- F5 S. 90(2)(jc)(jd) inserted (11.2.2021 for specified purposes) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 3 para. 13(2)**
- F6 Words in s. 90(4) inserted (1.4.2015) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 4 para. 13(2)** (with Sch. 11 para. 8); S.I. 2015/4, art. 4(1)(b) (with art. 4(2))
- F7 Word in s. 90(6) omitted (6.4.2015) by virtue of Pension Schemes Act 2015 (c. 8), s. 89(3)(a), **Sch. 2 para. 30(3)(a)** (with s. 87)
- F8 Words in s. 90(6) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), s. 89(3)(a), **Sch. 2 para. 30(3)(b)** (with s. 87)
- F9 Word in s. 90(6) omitted (1.2.2018) by virtue of Pension Schemes Act 2017 (c. 17), s. 44(2), **Sch. 3 para. 9(3)(a)**; S.I. 2018/62, reg. 2
- F10 Words in s. 90(6) inserted (1.2.2018) by Pension Schemes Act 2017 (c. 17), s. 44(2), **Sch. 3 para. 9(3)(b)**; S.I. 2018/62, reg. 2
- F11 Word in s. 90(6) omitted (11.2.2021 for specified purposes, 13.12.2021 in so far as not already in force) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 3 para. 13(3)(a)**
- F12 Words in s. 90(6) inserted (11.2.2021 for specified purposes) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 3 para. 13(3)(b)**
- F13 Words in s. 90(7) inserted (1.4.2015) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 4 para. 13(3)** (with Sch. 11 para. 8); S.I. 2015/4, art. 4(1)(b) (with art. 4(2))
- F14 S. 90(8) inserted (1.4.2015) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 4 para. 13(4)** (with Sch. 11 para. 8); S.I. 2015/4, art. 4(1)(b) (with art. 4(2))

Modifications etc. (not altering text)

- C1 S. 90(6) modified (30.12.2005) by The Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005 (S.I. 2005/3380), regs. 1, **13**

Commencement Information

- I1 S. 90(1)(2)(a)-(j)(3)-(7) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- I2 S. 90(2)(k) in force at 14.11.2005 by S.I. 2005/2447, **art. 2(1)**

Status:

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