



Pensions Act 2008

2008 CHAPTER 30

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 2

COMPLIANCE

Penalty notices

41 Escalating penalty notices

- (1) The Regulator may issue an escalating penalty notice to a person if it is of the opinion that the person has failed to comply with—
 - (a) a compliance notice under section 35,
 - (b) a third party compliance notice under section 36,
 - (c) an unpaid contributions notice under section 37, ^{F1}...
 - (d) a notice under section 72 of the Pensions Act 2004 (c. 35) (provision of information) [^{F2}, so far as relevant to the exercise of any of its functions under or by virtue of this Part][^{F3}, or
 - (e) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of its functions under or by virtue of this Part.]
- (2) But the Regulator may not issue an escalating penalty notice if—
 - (a) it relates to failure to comply with a notice within subsection (1)(a), (b) or (c), the person to whom that notice was issued has applied for a review of it under section 43, and any review has not been completed;
 - (b) it relates to failure to comply with any notice within subsection (1), the person has exercised the right of referral to [^{F4}a tribunal] under section 44 in respect of a fixed penalty notice issued in relation to that notice, and the reference has not been determined.

Status: Point in time view as at 29/06/2022.

Changes to legislation: Pensions Act 2008, Section 41 is up to date with all changes known to be in force on or before 22 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)

- (3) An escalating penalty notice is a notice requiring a person to pay an escalating penalty if the person fails to comply with a notice referred to in subsection (1) before a specified date.
- (4) An escalating penalty is a penalty which is calculated by reference to a prescribed daily rate.
- (5) The prescribed daily rate—
- (a) is to be determined in accordance with regulations, and
 - (b) must not exceed £10,000.
- (6) An escalating penalty notice must—
- (a) specify the failure to which the notice relates;
 - (b) state that, if the person fails to comply with the notice referred to in subsection (1) before a specified date, the person will be liable to pay an escalating penalty;
 - (c) state the daily rate of the escalating penalty and the way in which the penalty is calculated;
 - (d) state the date from which the escalating penalty will be payable, which must not be earlier than the date specified in the fixed penalty notice under section 40(5)(b);
 - (e) state that the escalating penalty will continue to be payable at the daily rate until the date on which the person complies with the notice referred to in subsection (1) or such earlier date as the Regulator may determine;
 - (f) notify the person of the review process under section 43 and the right of referral to ^{F4}a tribunal] under section 44.

Textual Amendments

- F1** Word in s. 41(1) omitted (29.6.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(1), **Sch. 7 para. 17(a)**; S.I. 2022/721, regs. 1(2), 2(d)
- F2** Words in s. 41(1)(d) inserted (14.7.2014) by Pensions Act 2014 (c. 19), **ss. 41(1)**, 56(3)(c)
- F3** S. 41(1)(e) and word inserted (29.6.2022) by Pension Schemes Act 2021 (c. 1), s. 131(1), **Sch. 7 para. 17(b)**; S.I. 2022/721, regs. 1(2), 2(d)
- F4** Words in s. 41(2)(b)(6)(f) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2)(e), 5(1), **Sch. 2 para. 148** (with Sch. 5)

Commencement Information

- I1** S. 41 partly in force; s. 41 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 41(a)-(c) (2)-(6) in force so far as not already in force and s. 41(1)(d) in force for certain purposes at 30.6.2012 by S.I. 2012/1682, **art. 2(1)(2)(a)**, Sch. 1

Status:

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Changes to legislation:

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