



Pension Schemes Act 2021

2021 CHAPTER 1

PART 3

THE PENSIONS REGULATOR

Gathering information

110 Interviews

- (1) The Pensions Act 2004 is amended as follows.
- (2) After section 72 insert—

“72A Interviews

- (1) The Regulator may, by notice in writing, require any person to whom section 72(2) applies to attend before the Regulator, at a time and place specified in the notice, to answer questions and provide explanations on one or more matters specified in the notice that are relevant to the exercise of any of the Regulator's functions.
- (2) A notice under subsection (1) must contain such other information as may be prescribed.”
- (3) In section 72 (provision of information), omit subsections (1A) and (1B).
- (4) In section 77 (penalties relating to sections 72 to 75)—
 - (a) after subsection (1) insert—

“(1A) A person who, without reasonable excuse, neglects or refuses—

 - (a) to attend before the Regulator as required under section 72A(1), or
 - (b) to answer a question or provide an explanation on a matter specified in the notice under section 72A(1), when so attending before the Regulator,

Status: Point in time view as at 31/05/2021. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2021, Cross Heading: Gathering information. (See end of Document for details)

is guilty of an offence.”;

- (b) in subsection (3), after “subsection (1)” insert “, (1A)”;
- (c) in subsection (4), after “subsection (1)” insert “, (1A)”.

Commencement Information

II S. 110(2) in force at 31.5.2021 for specified purposes by S.I. 2021/620, reg. 2(1)(c)

VALID FROM 01/10/2021

111 Inspection of premises

(1) Section 73 of the Pensions Act 2004 (inspection of premises) is amended as follows.

(2) In subsection (2)—

- (a) after paragraph (da) insert—
 - “(db) the Pension Schemes Act 2017;
 - (dc) Part 1 of the Pension Schemes Act 2021.”;
- (b) in paragraph (e), for “(da)” substitute “(dc)”.

(3) After subsection (2) insert—

“(2A) An inspector may, for the purposes of investigating whether the Regulator has grounds in the case of an occupational pension scheme for issuing—

- (a) a contribution notice under section 38 (contribution notices where avoidance of employer debt),
- (b) a financial support direction under section 43 (financial support directions),
- (c) a contribution notice under section 47 (contribution notices where non-compliance with financial support direction),
- (d) a restoration order under section 52 (restoration orders where transactions at an undervalue),
- (e) a contribution notice under section 55 (contribution notice where failure to comply with restoration order), or
- (f) a notice, direction or order under any corresponding provision in force in Northern Ireland,

at any reasonable time enter premises liable to inspection.”

(4) After subsection (5) insert—

“(5A) An inspector may, for the purposes of investigating whether the relevant provisions are being, or have been, complied with in the case of a scheme, at any reasonable time enter premises liable to inspection.

(5B) In subsection (5A), “the relevant provisions” means provisions contained in or made by virtue of—

- (a) such provisions of the pensions legislation as may be prescribed;
- (b) any provisions in force in Northern Ireland corresponding to the provisions so prescribed.”

Status: Point in time view as at 31/05/2021. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2021, Cross Heading: Gathering information. (See end of Document for details)

- (5) In subsection (6) (premises liable to inspection)—
- (a) in paragraph (b), omit the “or” at the end;
 - (b) after paragraph (c) insert—
 - “(d) documents relevant to the administration of the business of the employer in relation to the scheme are being kept there,
 - (e) the administration of the business of the employer in relation to the scheme, or work connected with that administration, is being carried out there, or
 - (f) in the case of an occupational pension scheme other than a money purchase scheme, a prescribed scheme or a scheme of a prescribed description, documents relevant to a change in the ownership of the employer or of a significant asset of the employer are being kept there.”
- (6) After subsection (6) insert—
- “(6A) In the application of this section in relation to a provision mentioned in subsection (1), (2A), (3), (4) or (5A), references in this section to “employer” are to be read as having the meaning that it has for the purposes of the provision in question.
- (6B) In this section a reference to an employer in relation to an occupational pension scheme includes a reference to a person who has been the employer in relation to the scheme.”
- (7) In subsection (7), for “this section,” substitute “this section—
- “the pensions legislation” means any enactment contained in or made by virtue of—
- (a) the Pension Schemes Act 1993,
 - (b) Part 1 or section 33 or 45 of the Welfare Reform and Pensions Act 1999,
 - (c) this Act,
 - (d) Schedule 18 to the Pensions Act 2014, or
 - (e) section 48 or 49 of the Pension Schemes Act 2015;”.

112 Fixed penalty notices and escalating penalty notices

After section 77 of the Pensions Act 2004 (penalties relating to sections 72 to 75) insert—

“77A Fixed penalty notices

- (1) The Regulator may issue a fixed penalty notice to a person if it considers that the person—
- (a) has failed to comply with a notice under section 72 or 72A,
 - (b) has failed to comply with a requirement under section 75, or
 - (c) has prevented or hindered an inspector exercising any power under section 73, 74 or 75.

Status: Point in time view as at 31/05/2021. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2021, Cross Heading: Gathering information. (See end of Document for details)

- (2) A fixed penalty notice is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.
- (3) The penalty—
- (a) is to be determined in accordance with regulations, and
 - (b) must not exceed £50,000.
- (4) A fixed penalty notice must—
- (a) state the amount of the penalty;
 - (b) state the date by which the penalty must be paid, which must be at least 28 days after the date on which the notice is issued;
 - (c) state the period to which the penalty relates;
 - (d) specify the failure or conduct to which the penalty relates;
 - (e) state that the Regulator may issue an escalating penalty notice under section 77B if the person fails to comply with a notice under section 72 or 72A;
 - (f) notify the person to whom the notice is issued of the review process under section 43 of the Pensions Act 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (5)).
- (5) The following sections of the Pensions Act 2008 apply to a penalty notice under this section as they apply to a penalty notice under section 40 of that Act—
- (a) section 42 (penalty notices: recovery);
 - (b) section 43 (review of penalty notices);
 - (c) section 44 (references to First-tier Tribunal or Upper Tribunal).
- (6) This section does not apply in a case where section 40 of the Pensions Act 2008 or section 17 of the Pension Schemes Act 2017 applies.

77B Escalating penalty notices

- (1) The Regulator may issue an escalating penalty notice to a person if it considers that the person has failed to comply with a notice under section 72 or 72A.
- (2) But the Regulator may not issue an escalating penalty notice to a person if—
- (a) the person has exercised the right of referral to a tribunal under section 44 of the Pensions Act 2008 (as applied by section 77A(5)) in respect of a fixed penalty notice issued under section 77A in relation to that notice under section 72 or 72A, and
 - (b) the reference has not been determined.
- (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 under section 72 or 72A before a specified date.
- (4) An escalating penalty is a penalty which is calculated by reference to a daily rate.
- (5) The daily rate—
- (a) is to be determined in accordance with regulations, and
 - (b) must not exceed £10,000.

Status: Point in time view as at 31/05/2021. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2021, Cross Heading: Gathering information. (See end of Document for details)

- (6) An escalating penalty notice must—
- (a) specify the failure to which the penalty relates;
 - (b) state that, if the person fails to comply with the notice under section 72 or 72A 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 77A(4)(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 under section 72 or 72A or such earlier date as the Regulator may determine;
 - (f) notify the person to whom the notice is issued of the review process under section 43 of the Pensions Act 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (7)).
- (7) The following sections of the Pensions Act 2008 apply to an escalating penalty notice under this section as they apply to an escalating penalty notice under section 41 of that Act—
- (a) section 42 (penalty notices: recovery);
 - (b) section 43 (review of penalty notices);
 - (c) section 44 (references to First-tier Tribunal or Upper Tribunal).
- (8) This section does not apply in a case where section 41 of the Pensions Act 2008 or section 18 of the Pension Schemes Act 2017 applies.”

Commencement Information

I2 S. 112 in force at 31.5.2021 for specified purposes by [S.I. 2021/620, reg. 2\(1\)\(d\)](#)

Status:

Point in time view as at 31/05/2021. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Pension Schemes Act 2021, Cross Heading: Gathering information.