

Status: Point in time view as at 01/10/2021. This version of this part 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, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 8

THE PENSIONS REGULATOR: NORTHERN IRELAND

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

15 In Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) after paragraph (9) insert—

“(10) The Authority may not require a person to pay a penalty under this Article in respect of an act or omission if the Authority have issued a notice to the person under Article 83A of the Pensions (Northern Ireland) Order 2005 (financial penalties) in respect of the same act or omission.”

Commencement Information

I1 Sch. 8 para. 15 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(a\)](#)

Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

16 The Pensions (Northern Ireland) Order 2005 is amended as follows.

Commencement Information

I2 [Sch. 8 para. 16](#) in force at 1.9.2021 for specified purposes by [S.R. 2021/240](#), [art. 2\(2\)\(a\)](#)

I3 [Sch. 8 para. 16](#) in force at 1.10.2021 for specified purposes by [S.R. 2021/271](#), [art. 2\(4\)\(b\)](#)

17 In Article 34B (Article 34 contribution notice issued by reference to material detriment test: defence), in paragraph (12), for sub-paragraph (b) substitute—

“(b) a reference to party to an act or failure to act includes a reference to a person who knowingly assists in the act or failure;”.

Commencement Information

I4 [Sch. 8 para. 17](#) in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

18 In Article 70 (inspection of premises: powers of inspectors), in paragraph (1)—

(a) after “paragraph (1),” insert “(2A), ”;

(b) for “(3) or (4)” substitute “(3), (4) or (5A) ”.

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I5 Sch. 8 para. 18 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

- 19 (1) Article 71 (inspection of premises: supplementary) is amended as follows.
- (2) In paragraph (3)(a)—
- (a) after “virtue of”, in the second place it occurs, insert “ Article 72A, 72B or 83A of this Order, ”;
 - (b) for “either of them” substitute “ any of those provisions ”.
- (3) In paragraph (9)—
- (a) after “(1),” insert “ (2A), ”;
 - (b) for “(3) or (4)” substitute “ (3), (4) or (5A) ”.

Commencement Information

I6 Sch. 8 para. 19 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

- 20 In Article 73 (warrants), in paragraph (1)(c)(iii)—
- (a) after “virtue of”, in the first place it occurs, insert “ Article 72A, 72B or 83A of this Order, ”;
 - (b) for “either of them” substitute “ any of those provisions ”.

Commencement Information

I7 Sch. 8 para. 20 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

- 21 (1) Article 75 (offences of providing false or misleading information) is amended as follows.
- (2) In paragraph (1)(a), after head (iii) insert—
- “(iiia) Article 67A (interviews),”.
- (3) In paragraph (1)(c), for “under this Order or the 1995 Order” substitute “under—
- (i) the 1995 Order,
 - (ii) this Order,
 - (iii) the Pensions (No. 2) Act (Northern Ireland) 2008,
 - (iv) Schedule 18 to the Pensions Act (Northern Ireland) 2015, or
 - (v) Part 2 of the Pension Schemes Act 2021”.

Commencement Information

I8 Sch. 8 para. 21 in force at 1.10.2021 for specified purposes by [S.R. 2021/271](#), [art. 2\(4\)\(d\)](#)

- 22 In Article 85 (codes of practice), in paragraph (2)—
- (a) in sub-paragraph (aa), after “test” insert “ , the employer insolvency test or the employer resources test ”;
 - (b) after sub-paragraph (b) insert—

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“(ba) the discharge of the duties imposed by Article 64A (duty to give notices and statements to the Regulator in respect of certain events);”.

Commencement Information

- I9** Sch. 8 para. 22(a) in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(c)
I10 Sch. 8 para. 22(b) in force at 1.10.2021 by S.R. 2021/271, art. 2(4)(e)

- 23 (1) Article 91 (the Regulator's standard procedure in relation to its regulatory functions) is amended as follows.
- (2) In paragraph (1A)(b), after “test” insert “, the employer insolvency test or the employer resources test”.
- (3) In paragraph (1B)—
- (a) in sub-paragraph (a), after “34B,” insert “ 34D or 34F (as the case may be) ”;
 - (b) in sub-paragraph (b), for “paragraph (2) of that Article” substitute “ Article 34B(2), 34D(2) and (3) or 34F(2) (as the case may be) ”.

Commencement Information

- I11** Sch. 8 para. 23 in force at 1.10.2021 by S.R. 2021/271, art. 2(4)(f)

- 24 In Article 233 (no indemnification for fines or civil penalties), in paragraph (1)(b), after “virtue of” insert “ Article 72A, 72B or 83A of this Order, ”.

Commencement Information

- I12** Sch. 8 para. 24 in force at 1.10.2021 by S.R. 2021/271, art. 2(4)(f)

- 25 (1) Article 282 (admissibility of statements) is amended as follows.
- (2) In paragraph (3)(b)—
- (a) after “financial penalty” insert “ on a relevant ground ”;
 - (b) after “virtue of—” insert—
 - “(ai) Article 83A (financial penalties),”;
 - (c) for head (i) (and the “or” following it) substitute—
 - “(i) section 164 of the Pension Schemes Act (breach of regulations),
 - (ia) Article 10 of the 1995 Order (civil penalties),
 - (ib) paragraph 10 of Schedule 17 to the Pensions Act (Northern Ireland) 2015 (penalties for contravention of regulations etc),
 - (ic) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc),”;
 - (d) for head (ii) substitute—
 - “(ii) section 168 of the Pension Schemes Act 1993 (breach of regulations),

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- (iii) section 10 of the Pensions Act 1995 (civil penalties),
- (iv) section 88A of the Pensions Act 2004 (financial penalties),
- (v) section 238G of that Act (penalties for contravention of regulations under section 238D),
- (vi) paragraph 10 of Schedule 17 to the Pensions Act 2014 (penalties for contravention of regulations etc), or
- (vii) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc).”

(3) After paragraph (3) insert—

“(3A) For the purposes of this Article a financial penalty is payable on a relevant ground if it is payable otherwise than under—

- (a) Article 83A as it applies by virtue of—
 - (i) Article 75A (financial penalty for providing false or misleading information to Regulator), or
 - (ii) Article 75B (financial penalty for providing false or misleading information to trustees or managers), or
- (b) section 88A of the Pensions Act 2004 as it applies by virtue of—
 - (i) section 80A of that Act (financial penalty for providing false or misleading information to Regulator), or
 - (ii) section 80B of that Act (financial penalty for providing false or misleading information to trustees or managers).”

(4) In paragraph (4), in the definition of “information requirement”, after paragraph (c) insert—

“(ca) Article 67A (requirement to attend interview etc);”.

Commencement Information

I13 Sch. 8 para. 25 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(f\)](#)

- 26 (1) Article 288 (Assembly etc. control of orders and regulations) is amended as follows.
- (2) In paragraph (3) (orders and regulations subject to confirmatory procedure), after sub-paragraph (aa) insert—
- “(aaa) regulations under Article 34E(2)(a) (Article 34 contribution notice: constitution of resources of employer);
 - (aab) regulations under Article 34E(2)(b) (Article 34 contribution notice: valuation of resources of employer);”.
- (3) In paragraph (3), after sub-paragraph (ab) insert—
- “(ac) regulations under Article 54A(1) (offence of avoidance of employer debt: power to except certain schemes);
 - (ad) regulations under Article 54B(1) (offence of conduct risking accrued scheme benefits: power to except certain schemes);
 - (ae) regulations under Article 54C(1) (financial penalty for avoidance of employer debt: power to except certain schemes);

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- (af) regulations under Article 54D(1) (financial penalty for conduct risking accrued scheme benefits: power to except certain schemes);
- (ag) regulations under Article 68(5B)(a) (inspection of premises: power to specify provisions by reference to which there may be inspection);
- (ah) regulations under Article 83A(3) (financial penalties: power to amend maximum amount of penalty);”.

Commencement Information

I14 Sch. 8 para. 26(1)(3) in force at 1.10.2021 by S.R. 2021/271, art. 2(4)(f)

I15 Sch. 8 para. 26(2) in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(d)

VALID FROM 28/07/2022

- 27 In Schedule 1 (the Pensions Regulator), in Part 1 (delegation), in paragraph 2(2), after paragraph (d) insert—
- “(da) the power to issue a notice under Article 67A;
 - (db) the power to issue a fixed penalty notice under Article 72A;
 - (dc) the power to issue an escalating penalty notice under Article 72B;
 - (dd) the power to require payment of a penalty under Article 83A;”.

VALID FROM 28/07/2022

- 28 In Schedule 2 (the reserved regulatory functions), after paragraph 41 insert—
- “41A The power to require a person to pay a penalty under Article 83A.”

VALID FROM 28/07/2022

- Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))*
- 29 The Pensions (No. 2) Act (Northern Ireland) 2008 is amended as follows.
- 30 In section 40 (fixed penalty notices), in subsection (1)—
- (a) omit the “or” after paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) a notice issued under Article 67A of that Order (interviews), so far as relevant to the exercise of its functions under or by virtue of this Part.”
- 31 In section 41 (escalating penalty notices), in subsection (1)—
- (a) omit the “or” after paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) a notice issued under Article 67A of that Order (interviews), so far as relevant to the exercise of its functions under or by virtue of this Part.”

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