

Status: Point in time view as at 29/09/2021.

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

SCHEDULES

SCHEDULE 1

Section 6

MONEY PURCHASE BENEFITS

Building Societies Act 1986 (c. 53)

- 1 (1) Schedule 10A to the Building Societies Act 1986 (disclosures about directors, other officers and employees in notes to accounts) is amended as follows.
- (2) In paragraph 1(2) (aggregate amount of director's remuneration), at the appropriate place insert—
- ““collective money purchase benefit” has the meaning given in section 1 of the Pension Schemes Act 2021;”.
- (3) In that provision, in the definition of “money purchase benefits”—
- (a) for “means retirement benefits” substitute “means—
- (a) retirement benefits”;
- (b) at the end insert “, and
- (b) collective money purchase benefits;”.
- (4) In paragraph 1A(1) (money purchase benefits), for “the definition” substitute “paragraph (a) of the definition”.

Commencement Information

II Sch. 1 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Pension Schemes Act 1993 (c. 48)

- 2 The Pension Schemes Act 1993 is amended as follows.

Commencement Information

I2 Sch. 1 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 3 (1) Section 181(1) (general interpretation) is amended as follows.
- (2) At the appropriate place insert—
- ““collective money purchase benefit” has the meaning given by section 1 of the Pension Schemes Act 2021;”.
- (3) In the definition of “money purchase benefits”—
- (a) for “means benefits” substitute “means—
- (a) benefits”;

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- (b) at the end insert “, and
 (b) collective money purchase benefits;”.

Commencement Information

I3 Sch. 1 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 4 In section 181B(1) (money purchase benefits: supplementary), for “the definition” substitute “ paragraph (a) of the definition ”.

Commencement Information

I4 Sch. 1 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Pensions Act 2008 (c. 30)

- 5 The Pensions Act 2008 is amended as follows.

Commencement Information

I5 Sch. 1 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 6 (1) Section 99 (interpretation of Part 1: pension scheme membership for jobholders) is amended as follows.
- (2) At the appropriate place insert—
- ““collective money purchase benefit” has the meaning given by section 1 of the Pension Schemes Act 2021;”.
- (3) In the definition of “money purchase benefits”—
- (a) for “means benefits” substitute “means—
 (a) benefits”;
- (b) at the end insert “, and
 (b) collective money purchase benefits;”.

Commencement Information

I6 Sch. 1 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 7 In section 99A(1) (money purchase benefits: supplementary), for “the definition” substitute “ paragraph (a) of the definition ”.

Commencement Information

I7 Sch. 1 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(a)

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SCHEDULE 2

Section 44

PAUSE ORDERS

Consequences of a pause order

- 1 (1) If a pause order is made in relation to a collective money purchase scheme, any action taken in contravention of the order is void, except to the extent that the action is validated by an order under paragraph 3.
- (2) If a pause order contains a direction under section 44(5)(b) that no further payments (or no further payments of a specified description) are to be made towards a scheme during the period for which the order has effect—
- (a) any payments that are the subject of the direction and would otherwise be due to be made towards the scheme during that period are to be treated as if they do not fall due, and
 - (b) any obligation to make those payments (including any obligation under section 49(8) of the Pensions Act 1995 to pay amounts deducted corresponding to such payments) is to be treated as if it does not arise.
- (3) If a pause order contains a direction under section 44(5)(d) (no payment of benefits or benefits of a specified description under the scheme rules) and an amount of benefit under the scheme rules was not paid as a result of the direction—
- (a) the direction does not affect any entitlement to that benefit, and
 - (b) any benefit to which a member, or a person in respect of a member, remains entitled at the end of the period for which the pause order had effect is an amount that falls due to the member or (as the case may be) the person at the end of that period.
- (4) If a pause order contains a direction under section 44(5)(e) (no transfers etc of members' rights) it does not prevent—
- (a) a pension sharing order or provision having effect, or
 - (b) a pension earmarking order having effect in a case where—
 - (i) the order requires a payment to be made if a payment in respect of any benefits under the scheme becomes due to a person, and
 - (ii) a direction under section 44(5)(d) does not prevent the payment becoming due.
- (5) In sub-paragraph (4)—
- “pension sharing order or provision” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (activation of pension sharing);
- “pension earmarking order” means—
- (a) an order under section 23 of the Matrimonial Causes Act 1973 (financial provision orders in connection with divorce etc) so far as it includes provision made by virtue of section 25B or 25C of that Act (powers to include provision about pensions),
 - (b) an order under Part 1 of Schedule 5 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation) so far as it includes provision made by virtue of paragraphs 25 and 26 of Part 6 of that Schedule (powers to include provision about pensions),

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- (c) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (powers in relation to pension lump sums when making a capital sum order),
 - (d) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)) so far as it includes provision made by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to those mentioned in paragraph (a)), or
 - (e) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation: Northern Ireland) so far as it includes provision made by virtue of paragraphs 20 and 21 of Part 5 of that Schedule (powers to include provision about pensions).
- (6) The Secretary of State may make regulations modifying any provision of—
- (a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),
- in their application to a collective money purchase scheme in relation to which a pause order has effect containing a direction under section 44(5)(e) (no transfers etc of members' rights).
- (7) Regulations under sub-paragraph (6) override any provision of the collective money purchase scheme, to the extent that there is a conflict.
- (8) Disregarding sub-paragraph (1), if a pause order made in relation to a collective money purchase scheme is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee of the scheme who has failed to take all reasonable steps to secure compliance.
- (9) Sub-paragraph (8) does not apply in the case of non-compliance with a direction under section 44(5)(c) (direction that certain deducted payments are to be repaid by employer).
- (10) In such a case, section 10 of the Pensions Act 1995 (civil penalties) applies to an employer who, without reasonable excuse, fails to repay an amount as required by the direction.
- (11) Regulations under sub-paragraph (6) are subject to negative resolution procedure.

Commencement Information

I8 [Sch. 2 para. 1](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

Period of effect etc of pause order

- 2
- (1) A pause order must specify the period for which it has effect, which must not exceed three months.
 - (2) The Pensions Regulator may on one or more occasions by order extend the period for which the pause order has effect for a further three months.
 - (3) A pause order that is in effect at the end of the triggering event period ceases to have effect at the end of that period.

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Commencement Information

I9 Sch. 2 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Validation of action in contravention of pause order

- 3
- (1) If a pause order is made in relation to a collective money purchase scheme, the Pensions Regulator may by order validate action taken in contravention of the order.
 - (2) Any of the following persons may apply to the Regulator for an order under this paragraph validating particular action—
 - (a) the trustees of the scheme;
 - (b) any person directly affected by the action.

Commencement Information

I10 Sch. 2 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Notification of trustees, employers and members

- 4
- (1) This paragraph applies where—
 - (a) a pause order is made in relation to a collective money purchase scheme,
 - (b) an order is made under paragraph 2(2) extending the period for which a pause order made in relation to a collective money purchase scheme has effect, or
 - (c) an order is made under paragraph 3 validating action taken in contravention of a pause order made in relation to a collective money purchase scheme.
 - (2) The Pensions Regulator must, as soon as reasonably practicable after the order has been made, notify the trustees of the scheme of the fact that the order has been made and of its effect.
 - (3) The Pensions Regulator may by order direct the trustees of the scheme to notify the following persons of the fact that the order has been made and of its effect—
 - (a) all of the members of the scheme or such members as are of a description specified in the order;
 - (b) all employers by which the scheme is used, or such employers as are of a description specified in the order;
 - (c) all relevant former employers who, but for the pause order, would be liable to make payments towards the scheme, or such of them as are of a description specified in the order.
 - (4) The trustees must give the notification within the period and in the manner specified in the order under sub-paragraph (3).
 - (5) If the trustees of a scheme fail to comply with a direction to them contained in an order under sub-paragraph (3), section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who has failed to take all reasonable steps to secure compliance.

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Commencement Information

I11 Sch. 2 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Supplementary

- 5 (1) A pause order, or an order made under any of paragraphs 2, 3 and 4, may be made in relation to a collective money purchase scheme—
- (a) in spite of any enactment or rule of law, or any rule of the scheme, that would otherwise operate to prevent the order being made, and
 - (b) without regard to any enactment, rule of law or rule of the scheme that would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent, with a view to making the order.
- (2) Sub-paragraph (1) does not have effect to authorise the Pensions Regulator to make an order as mentioned in that sub-paragraph if its doing so would be unlawful as a result of section 6(1) of the Human Rights Act 1998 (unlawful for public authority to act in contravention of a Convention right).

Commencement Information

I12 Sch. 2 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

SCHEDULE 3

Section 48

COLLECTIVE MONEY PURCHASE BENEFITS: MINOR AND CONSEQUENTIAL AMENDMENTS

Pension Schemes Act 1993 (c. 48)

- 1 The Pension Schemes Act 1993 is amended as follows.

Commencement Information

I13 Sch. 3 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 2 (1) Section 84 (basis of revaluation of accrued benefits) is amended as follows.
- (2) In subsection (3), after “money purchase benefit” insert “ other than a collective money purchase benefit ”.
 - (3) After subsection (3A) insert—
 - “(3AA) If any such benefit as is mentioned in section 83(1)(a) is a collective money purchase benefit, the benefit shall be revalued using the cash balance method.”

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

Commencement Information

I14 Sch. 3 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 3 In section 101AI (right to cash transfer sum and contribution refund: further provisions), in subsection (8)—
- (a) in paragraph (a), at the end insert—
 - “(xiii) regulations made under section 18(4) of or paragraph 1(6) of Schedule 2 to the Pension Schemes Act 2021;
 - (xiv) sections 34, 39, 41, 42 and 45 of the Pension Schemes Act 2021;”;
 - (b) in paragraph (b), at the end insert—
 - “(xi) sections 18(7)(b), 34(5), 39(6), 41(6), 42(2) and 45(5) of and paragraph 1(7) of Schedule 2 to the Pension Schemes Act 2021.”

Commencement Information

I15 Sch. 3 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 4 In section 186 (Parliamentary control of orders and regulations), in subsection (3) (statutory instruments subject to affirmative resolution procedure), after paragraph (f) insert “, or
- (g) regulations under section 99(2)(c), or
 - (h) regulations under section 99A(2)(b),”.

Commencement Information

I16 Sch. 3 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 5 In Schedule 3 (methods of revaluing accrued pension benefits), in paragraph 3A (the cash balance method), for “cash balance benefit” substitute “benefit”.

Commencement Information

I17 Sch. 3 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Pensions Act 1995 (c. 26)

- 6 The Pensions Act 1995 is amended as follows.

Commencement Information

I18 Sch. 3 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 7 In section 51 (annual increase in rate of pension), after subsection (1) insert—

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“(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated for the purposes of this section as a separate occupational pension scheme which is a money purchase scheme.”

Commencement Information

I19 Sch. 3 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(a)

8 In section 75 (deficiencies in the assets of certain occupational pension schemes), after subsection (1) insert—

“(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated for the purposes of this section as a separate occupational pension scheme which is a money purchase scheme.”

Commencement Information

I20 Sch. 3 para. 8 in force at Royal Assent for specified purposes, see s. 131(3)(a)

9 In section 87 (schedules of payments to money purchase schemes), after subsection (1) insert—

“(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated for the purposes of this section and section 88 as an occupational pension scheme which is a money purchase scheme.”

Commencement Information

I21 Sch. 3 para. 9 in force at Royal Assent for specified purposes, see s. 131(3)(a)

10 In section 89 (application of further provisions to money purchase schemes), at the end insert—

“(3) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated for the purposes of this section as a separate money purchase scheme.”

Commencement Information

I22 Sch. 3 para. 10 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Pensions Act 2004 (c. 35)

11 The Pensions Act 2004 is amended as follows.

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Commencement Information

I23 [Sch. 3 para. 11](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 12 In section 13 (improvement notices), in subsection (7), after paragraph (h) insert—
“(i) Part 1 of the Pension Schemes Act 2021.”

Commencement Information

I24 [Sch. 3 para. 12](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 13 (1) Section 90 (codes of practice) is amended as follows.
- (2) In subsection (2) (matters on which the Pensions Regulator must issue codes of practice), after paragraph (jb) insert—
- “(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);”.
- (3) In subsection (6), in the definition of “the pensions legislation”—
- (a) omit the “or” at the end of paragraph (f);
 - (b) after paragraph (g) insert “, or
 - (h) Part 1 of the Pension Schemes Act 2021.”

Commencement Information

I25 [Sch. 3 para. 13](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 14 (1) Section 93(2) (regulatory functions of the Pensions Regulator) is amended as follows.
- (2) In paragraph (pa)—
- (a) after “strategy” insert “ for Master Trust scheme ”;
 - (b) omit the “and” at the end.
- (3) After paragraph (pa) insert—
- “(pb) the power to give a direction under section 23(2) of the Pension Schemes Act 2021 (direction to obtain actuarial valuation or take other steps to remedy or mitigate failure in relation to a collective money purchase scheme),
 - (pc) the power to give a notice under section 29(1) or (4) of that Act (risk notices),
 - (pd) the power to give a direction under section 29(6) of that Act (direction to implement proposals in a resolution plan),
 - (pe) the power to give a direction under section 39(4) of that Act (direction to submit implementation strategy), and”.

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Commencement Information

I26 Sch. 3 para. 14 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 15 In section 97(5) (special procedure: applicable cases), after paragraph (tf) insert—
- “(tg) the power under section 30 of the Pension Schemes Act 2021 to withdraw authorisation of a collective money purchase scheme;
 - (th) the power to make a pause order under section 44 of that Act;
 - (ti) the power to make an order under paragraph 2(2) of Schedule 2 to that Act extending the period for which a pause order has effect;
 - (tj) the power to make an order under paragraph 3 of that Schedule validating action taken in contravention of a pause order;
 - (tk) the power to make an order under paragraph 4(3) of that Schedule directing the notification of members or employers;”.

Commencement Information

I27 Sch. 3 para. 15 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 16 In section 126 (schemes eligible for pension protection), after subsection (1) insert—
- “(1A) Where a scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated for the purposes of this Part as a separate money purchase scheme.”

Commencement Information

I28 Sch. 3 para. 16 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 17 In section 249A (requirement for an effective system of governance), in subsection (3) (exceptions), after paragraph (e) insert—
- “(f) an authorised collective money purchase scheme within the meaning of Part 1 of the Pension Schemes Act 2021.”

Commencement Information

I29 Sch. 3 para. 17 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 18 In section 254 (representative of non-European scheme to be treated as trustee), in subsection (3)—
- (a) omit the “or” at the end of paragraph (d);
 - (b) after paragraph (e) insert “, or
 - (f) Part 1 of the Pension Schemes Act 2021.”

Commencement Information

I30 Sch. 3 para. 18 in force at Royal Assent for specified purposes, see s. 131(3)(a)

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

- 19 In section 291 (duty of trustees or managers to act consistently with law of host member State), in subsection (4)—
- (a) omit the “or” at the end of paragraph (d);
 - (b) after paragraph (e) insert “, or
 - (f) Part 1 of the Pension Schemes Act 2021.”

Commencement Information

I31 Sch. 3 para. 19 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 20 In section 318 (general interpretation), in subsection (3)—
- (a) in paragraph (a), after sub-paragraph (xiii) insert—
 - “(xiv) regulations under section 18(4) of or paragraph 1(6) of Schedule 2 to the Pension Schemes Act 2021;
 - (xv) sections 34, 39, 41, 42 and 45 of the Pension Schemes Act 2021;”;
 - (b) in paragraph (b), after sub-paragraph (xi) insert—
 - “(xii) sections 18(7)(b), 34(5), 39(6), 41(6), 42(2) and 45(5) of and paragraph 1(7) of Schedule 2 to the Pension Schemes Act 2021.”

Commencement Information

I32 Sch. 3 para. 20 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 21 In Schedule 2 (the reserved regulatory functions), after Part 4A insert—

“PART 4B

FUNCTIONS UNDER PART 1 OF THE PENSION SCHEMES ACT 2021

- 44H The power to give a direction under section 23(2) (direction to obtain actuarial valuation or take other steps to remedy or mitigate failure in relation to a collective money purchase scheme).
- 44I The power to give a direction under section 29(6) (direction to implement proposals in a resolution plan).
- 44J The power under section 30 to withdraw authorisation of a collective money purchase scheme.
- 44K The power to give a direction under section 41(4) (direction to pursue a continuity option).
- 44L The power to make a pause order under section 44.
- 44M The power to make an order under paragraph 2(2) of Schedule 2 extending the period for which a pause order has effect.
- 44N The power to make an order under paragraph 3 of Schedule 2 validating action taken in contravention of a pause order.

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- 44O The power to make an order under paragraph 4(3) of Schedule 2 directing the notification of members or employers.”

Commencement Information

I33 [Sch. 3 para. 21](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

Pensions Act 2008 (c. 30)

- 22 In section 31 of the Pensions Act 2008 (effect of freezing order, assessment period or pause order: qualifying schemes), in subsection (3) (meaning of “freezing event” and “relevant provision”)—
- (a) in the definition of “freezing event”—
- (i) omit the “or” at the end of each of paragraphs (a) and (b);
- (ii) at the end of paragraph (c) insert “, or
- (d) the making of a pause order under section 44 of the Pension Schemes Act 2021;”;
- (b) in the definition of “relevant provision”, in paragraph (c), after “2017” insert “ or (as the case may be) section 44 of the Pension Schemes Act 2021 ”.

Commencement Information

I34 [Sch. 3 para. 22](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

Pensions Act 2014 (c. 19)

- 23 The Pensions Act 2014 is amended as follows.

Commencement Information

I35 [Sch. 3 para. 23](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 24 In section 54(2) (regulations subject to affirmative procedure), omit the “or” after paragraph (e) and at the end of paragraph (f) insert “, or
- (g) the first regulations under paragraph 1 or 3 of that Schedule that make provision in relation to collective money purchase schemes within the meaning of Part 1 of the Pension Schemes Act 2021 (see section 1 of that Act).”

Commencement Information

I36 [Sch. 3 para. 24](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 25 (1) Schedule 18 (power to restrict charges or impose requirements in relation to schemes) is amended as follows.
- (2) In paragraph 1(1) (power to restrict charges), in each of paragraphs (a) and (b), for “a member” substitute “ members ”.

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(3) In paragraph 4 (interpretation), after sub-paragraph (2) insert—

“(3) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated for the purposes of this Schedule as a separate scheme.”

Commencement Information

I37 Sch. 3 para. 25 in force at Royal Assent for specified purposes, see s. 131(3)(a)

SCHEDULE 4

Section 57

MONEY PURCHASE BENEFITS: NORTHERN IRELAND

Building Societies Act 1986 (c. 53)

- 1 In Schedule 10A to the Building Societies Act 1986 (disclosures about directors, other officers and employees in notes to accounts), in paragraph 1(2), in the definition of “collective money purchase benefit” (inserted by Schedule 1 to this Act), after “section 1” insert “ or 52 ”.

Commencement Information

I38 Sch. 4 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

- 2 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

Commencement Information

I39 Sch. 4 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 3 (1) Section 176(1) (general interpretation) is amended as follows.
- (2) At the appropriate place insert—
- ““collective money purchase benefit” has the meaning given by section 52 of the Pension Schemes Act 2021;”.
- (3) In the definition of “money purchase benefits”—
- (a) for “means benefits” substitute “means—
- (a) benefits”;
- (b) at the end insert “, and
- (b) collective money purchase benefits;”.

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Commencement Information

I40 Sch. 4 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 4 In section 176B(1) (money purchase benefits: supplementary), for “the definition” substitute “ paragraph (a) of the definition ”.

Commencement Information

I41 Sch. 4 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

- 5 The Pensions (No. 2) Act (Northern Ireland) 2008 is amended as follows.

Commencement Information

I42 Sch. 4 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 6 (1) Section 78 (interpretation of Part 1: pension scheme membership for jobholders) is amended as follows.
- (2) At the appropriate place insert—
- ““collective money purchase benefit” has the meaning given by section 52 of the Pension Schemes Act 2021;”.
- (3) In the definition of “money purchase benefits”—
- (a) for “means benefits” substitute “means—
- (a) benefits”;
- (b) at the end insert “, and
- (b) collective money purchase benefits;”.

Commencement Information

I43 Sch. 4 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 7 In section 78A(1) (money purchase benefits: supplementary), for “the definition” substitute “ paragraph (a) of the definition ”.

Commencement Information

I44 Sch. 4 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Status: Point in time view as at 29/09/2021.

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

SCHEDULE 5

Section 95

PAUSE ORDERS: NORTHERN IRELAND

Consequences of a pause order

- 1 (1) If a pause order is made in relation to a collective money purchase scheme, any action taken in contravention of the order is void, except to the extent that the action is validated by an order under paragraph 3.
- (2) If a pause order contains a direction under section 95(5)(b) that no further payments (or no further payments of a specified description) are to be made towards a scheme during the period for which the order has effect—
- (a) any payments that are the subject of the direction and would otherwise be due to be made towards the scheme during that period are to be treated as if they do not fall due, and
 - (b) any obligation to make those payments (including any obligation under Article 49(8) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) to pay amounts deducted corresponding to such payments) is to be treated as if it does not arise.
- (3) If a pause order contains a direction under section 95(5)(d) (no payment of benefits or benefits of a specified description under the scheme rules) and an amount of benefit under the scheme rules was not paid as a result of the direction—
- (a) the direction does not affect any entitlement to that benefit, and
 - (b) any benefit to which a member, or a person in respect of a member, remains entitled at the end of the period for which the pause order had effect is an amount that falls due to the member or (as the case may be) the person at the end of that period.
- (4) If a pause order contains a direction under section 95(5)(e) (no transfers etc of members' rights) it does not prevent—
- (a) a pension sharing order or provision having effect, or
 - (b) a pension earmarking order having effect in a case where—
 - (i) the order requires a payment to be made if a payment in respect of any benefits under the scheme becomes due to a person, and
 - (ii) a direction under section 95(5)(d) does not prevent the payment becoming due.
- (5) In sub-paragraph (4)—
- “pension sharing order or provision” means an order or provision falling within Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) (activation of pension sharing);
 - “pension earmarking order” means—
 - (a) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)) so far as it includes provision made by virtue of Article 27B or 27C of that Order (powers to include provision about pensions),
 - (b) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation: Northern Ireland) so far as it includes provision made by

Status: Point in time view as at 29/09/2021.

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

- virtue of paragraphs 20 and 21 of Part 5 of that Schedule (powers to include provision about pensions),
- (c) an order under section 23 of the Matrimonial Causes Act 1973 (financial provision orders in connection with divorce etc) so far as it includes provision made by virtue of section 25B or 25C of that Act (powers to include provision about pensions),
 - (d) an order under Part 1 of Schedule 5 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation) so far as it includes provision made by virtue of paragraphs 25 and 26 of Part 6 of that Schedule (powers to include provision about pensions), or
 - (e) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (powers in relation to pension lump sums when making a capital sum order).
- (6) The Department may make regulations modifying any provision of—
- (a) Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993 (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),
- in their application to a collective money purchase scheme in relation to which a pause order has effect containing a direction under section 95(5)(e) (no transfers etc of members' rights).
- (7) Regulations under sub-paragraph (6) override any provision of the collective money purchase scheme, to the extent that there is a conflict.
- (8) Disregarding sub-paragraph (1), if a pause order made in relation to a collective money purchase scheme is not complied with, Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties) applies to any trustee of the scheme who has failed to take all reasonable steps to secure compliance.
- (9) Sub-paragraph (8) does not apply in the case of non-compliance with a direction under section 95(5)(c) (direction that certain deducted payments are to be repaid by employer).
- (10) In such a case, Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to an employer who, without reasonable excuse, fails to repay an amount as required by the direction.
- (11) Regulations under sub-paragraph (6) are subject to negative resolution.

Commencement Information

I45 [Sch. 5 para. 1](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

Period of effect etc of pause order

- 2
- (1) A pause order must specify the period for which it has effect, which must not exceed three months.
 - (2) The Pensions Regulator may on one or more occasions by order extend the period for which the pause order has effect for a further three months.

Status: Point in time view as at 29/09/2021.

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

- (3) A pause order that is in effect at the end of the triggering event period ceases to have effect at the end of that period.

Commencement Information

I46 Sch. 5 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Validation of action in contravention of pause order

- 3 (1) If a pause order is made in relation to a collective money purchase scheme, the Pensions Regulator may by order validate action taken in contravention of the order.
- (2) Any of the following persons may apply to the Regulator for an order under this paragraph validating particular action—
- (a) the trustees of the scheme;
 - (b) any person directly affected by the action.

Commencement Information

I47 Sch. 5 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Notification of trustees, employers and members

- 4 (1) This paragraph applies where—
- (a) a pause order is made in relation to a collective money purchase scheme,
 - (b) an order is made under paragraph 2(2) extending the period for which a pause order made in relation to a collective money purchase scheme has effect, or
 - (c) an order is made under paragraph 3 validating action taken in contravention of a pause order made in relation to a collective money purchase scheme.
- (2) The Pensions Regulator must, as soon as reasonably practicable after the order has been made, notify the trustees of the scheme of the fact that the order has been made and of its effect.
- (3) The Pensions Regulator may by order direct the trustees of the scheme to notify the following persons of the fact that the order has been made and of its effect—
- (a) all of the members of the scheme or such members as are of a description specified in the order;
 - (b) all employers by which the scheme is used, or such employers as are of a description specified in the order;
 - (c) all relevant former employers who, but for the pause order, would be liable to make payments towards the scheme, or such of them as are of a description specified in the order.
- (4) The trustees must give the notification within the period and in the manner specified in the order under sub-paragraph (3).
- (5) If the trustees of a scheme fail to comply with a direction to them contained in an order under sub-paragraph (3), Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties) applies to a trustee who has failed to take all reasonable steps to secure compliance.

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I48 Sch. 5 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Supplementary

- 5 (1) A pause order, or an order made under any of paragraphs 2, 3 and 4, may be made in relation to a collective money purchase scheme—
- (a) in spite of any statutory provision or rule of law, or any rule of the scheme, that would otherwise operate to prevent the order being made, and
 - (b) without regard to any statutory provision, rule of law or rule of the scheme that would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent, with a view to making the order.
- (2) Sub-paragraph (1) does not have effect to authorise the Pensions Regulator to make an order as mentioned in that sub-paragraph if its doing so would be unlawful as a result of section 6(1) of the Human Rights Act 1998 (unlawful for public authority to act in contravention of a Convention right).

Commencement Information

I49 Sch. 5 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

SCHEDULE 6

Section 99

COLLECTIVE MONEY PURCHASE BENEFITS: MINOR AND
 CONSEQUENTIAL AMENDMENTS FOR NORTHERN IRELAND

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

- 1 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

Commencement Information

I50 Sch. 6 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 2 (1) Section 80 (basis of revaluation of accrued benefits) is amended as follows.
- (2) In subsection (3), after “money purchase benefit” insert “ other than a collective money purchase benefit ”.
 - (3) After subsection (3A) insert—
 - “(3AA) If any such benefit as is mentioned in section 79(1)(a) is a collective money purchase benefit, the benefit shall be revalued using the cash balance method.”

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I51 Sch. 6 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 3 In section 97AI (right to cash transfer sum and contribution refund: further provisions), in subsection (7)—
- (a) in paragraph (a), at the end insert—
- “(xii) regulations made under section 69(4) of or paragraph 1(6) of Schedule 5 to the Pension Schemes Act 2021;
- (xiii) sections 85, 90, 92, 93 and 96 of the Pension Schemes Act 2021;”;
- (b) in paragraph (b), at the end insert—
- “(x) sections 69(7)(b), 85(5), 90(6), 92(6), 93(2) and 96(5) of and paragraph 1(7) of Schedule 5 to the Pension Schemes Act 2021.”

Commencement Information

I52 Sch. 6 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 4 In section 181 (Assembly, etc. control of regulations and orders), in subsection (2) (regulations and orders subject to confirmatory procedure), after “20B(5)” insert “, 95(2)(c), 95A(2)(b) ”.

Commencement Information

I53 Sch. 6 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 5 In Schedule 2 (methods of revaluing accrued pension benefits), in paragraph 3A (the cash balance method), for “cash balance benefit” substitute “ benefit ”.

Commencement Information

I54 Sch. 6 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

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

- 6 The Pensions (Northern Ireland) Order 1995 is amended as follows.

Commencement Information

I55 Sch. 6 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 7 In Article 51 (annual increase in rate of pension), after paragraph (1) insert—
- “(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the

Status: Point in time view as at 29/09/2021.

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

purposes of this Article as a separate occupational pension scheme which is a money purchase scheme.”

Commencement Information

I56 Sch. 6 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(a)

8 In Article 75 (deficiencies in the assets of certain occupational pension schemes), after paragraph (1) insert—

“(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Article as a separate occupational pension scheme which is a money purchase scheme.”

Commencement Information

I57 Sch. 6 para. 8 in force at Royal Assent for specified purposes, see s. 131(3)(a)

9 In Article 85 (schedules of payments to money purchase schemes), after paragraph (1) insert—

“(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Article and Article 86 as an occupational pension scheme which is a money purchase scheme.”

Commencement Information

I58 Sch. 6 para. 9 in force at Royal Assent for specified purposes, see s. 131(3)(a)

10 In Article 87 (application of further provisions to money purchase schemes), at the end insert—

“(3) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Article as a separate money purchase scheme.”

Commencement Information

I59 Sch. 6 para. 10 in force at Royal Assent for specified purposes, see s. 131(3)(a)

11 *Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))*
 The Pensions (Northern Ireland) Order 2005 is amended as follows.

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I60 Sch. 6 para. 11 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 12 In Article 2 (general interpretation), in paragraph (4)—
- (a) in sub-paragraph (a), after head (ix) insert—
 - “(x) regulations made under section 69(4) of or paragraph 1(6) of Schedule 5 to the Pension Schemes Act 2021;
 - (xi) sections 85, 90, 92, 93 and 96 of the Pension Schemes Act 2021;”;
 - (b) in sub-paragraph (b), after head (vii) insert—
 - “(viii) sections 69(7)(b), 85(5), 90(6), 92(6), 93(2) and 96(5) of and paragraph 1(7) of Schedule 5 to the Pension Schemes Act 2021.”

Commencement Information

I61 Sch. 6 para. 12 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 13 In Article 9 (improvement notices), in paragraph (7)—
- (a) omit the “or” at the end of sub-paragraph (f);
 - (b) after sub-paragraph (g) insert “, or
 - (h) Part 2 of the Pension Schemes Act 2021.”

Commencement Information

I62 Sch. 6 para. 13 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 14 (1) Article 85 (codes of practice) is amended as follows.
- (2) In paragraph (2) (matters on which the Pensions Regulator must issue codes of practice), after sub-paragraph (j) insert—
- “(ja) the process for making an application under Part 2 of the Pension Schemes Act 2021 for authorisation of a collective money purchase scheme;
 - (jb) the matters that the 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 60 of the Pension Schemes Act 2021);”.
- (3) In paragraph (6), in the definition of “the pensions legislation”—
- (a) omit the “or” at the end of sub-paragraph (e);
 - (b) after sub-paragraph (f) insert “, or
 - (g) Part 2 of the Pension Schemes Act 2021.”

Commencement Information

I63 Sch. 6 para. 14 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Status: Point in time view as at 29/09/2021.

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

- 15 In Article 88(2) (regulatory functions of the Pensions Regulator)—
- (a) omit the “and” at the end of sub-paragraph (p);
 - (b) after sub-paragraph (p) insert—
 - “(pa) the power to give a direction under section 74(2) of the Pension Schemes Act 2021 (direction to obtain actuarial valuation or take other steps to remedy or mitigate failure in relation to a collective money purchase scheme),
 - (pb) the power to give a notice under section 80(1) or (4) of that Act (risk notices),
 - (pc) the power to give a direction under section 80(6) of that Act (direction to implement proposals in a resolution plan),
 - (pd) the power to give a direction under section 90(4) of that Act (direction to submit implementation strategy), and”.

Commencement Information

I64 Sch. 6 para. 15 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 16 In Article 92(5) (special procedure: applicable cases), after sub-paragraph (ta) insert—
- “(tb) the power under section 81 of the Pension Schemes Act 2021 to withdraw authorisation of a collective money purchase scheme;
 - (tc) the power to make a pause order under section 95 of that Act;
 - (td) the power to make an order under paragraph 2(2) of Schedule 5 to that Act extending the period for which a pause order has effect;
 - (te) the power to make an order under paragraph 3 of that Schedule validating action taken in contravention of a pause order;
 - (tf) the power to make an order under paragraph 4(3) of that Schedule directing the notification of members or employers;”.

Commencement Information

I65 Sch. 6 para. 16 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 17 In Article 110 (schemes eligible for pension protection), after paragraph (1) insert—
- “(1A) Where a scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Part as a separate money purchase scheme.”

Commencement Information

I66 Sch. 6 para. 17 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 18 In Article 226A (requirement for an effective system of governance), in paragraph (3) (exceptions), after sub-paragraph (d) insert—
- “(e) an authorised collective money purchase scheme within the meaning of Part 2 of the Pension Schemes Act 2021.”

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I67 Sch. 6 para. 18 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 19 In Article 231 (representative of non-European scheme to be treated as trustee), in paragraph (3)—
- (a) omit the “or” at the end of sub-paragraph (d);
 - (b) after sub-paragraph (e) insert “, or
 - (f) Part 2 of the Pension Schemes Act 2021.”

Commencement Information

I68 Sch. 6 para. 19 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 20 In Article 267 (duty of trustees or managers to act consistently with law of host EEA State), in paragraph (4)—
- (a) omit the “or” at the end of sub-paragraph (d);
 - (b) after sub-paragraph (e) insert “, or
 - (f) Part 2 of the Pension Schemes Act 2021.”

Commencement Information

I69 Sch. 6 para. 20 in force at Royal Assent for specified purposes, see s. 131(3)(a)

- 21 In Schedule 2 (the reserved regulatory functions), after Part 4 insert—

“PART 4A

FUNCTIONS UNDER PART 2 OF THE PENSION SCHEMES ACT 2021

- 44A The power to give a direction under section 74(2) (direction to obtain actuarial valuation or take other steps to remedy or mitigate failure in relation to a collective money purchase scheme).
- 44B The power to give a direction under section 80(6) (direction to implement proposals in a resolution plan).
- 44C The power under section 81 to withdraw authorisation of a collective money purchase scheme.
- 44D The power to give a direction under section 92(4) (direction to pursue a continuity option).
- 44E The power to make a pause order under section 95.
- 44F The power to make an order under paragraph 2(2) of Schedule 5 extending the period for which a pause order has effect.
- 44G The power to make an order under paragraph 3 of Schedule 5 validating action taken in contravention of a pause order.
- 44H The power to make an order under paragraph 4(3) of Schedule 5 directing the notification of members or employers.”

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I70 [Sch. 6 para. 21](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

- 22 (1) Section 31 of the Pensions (No. 2) Act (Northern Ireland) 2008 (effect of freezing order or assessment period: qualifying schemes) is amended as follows.
- (2) In the heading, for “or assessment period” substitute “, assessment period or pause order”.
- (3) In subsection (3) (meaning of “freezing event” and “relevant provision”)—
- (a) in the definition of “freezing event”—
- (i) omit the “or” at the end of paragraph (a);
- (ii) at the end of paragraph (b) insert “, or
- (c) the making of a pause order under section 95 of the Pension Schemes Act 2021;”;
- (b) in the definition of “relevant provision”, after paragraph (b) insert—
- “(c) in relation to a pause order, provision contained in the order or the provision made with respect to the order by section 95 of the Pension Schemes Act 2021.”

Commencement Information

I71 [Sch. 6 para. 22](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.))

- 23 The Pensions Act (Northern Ireland) 2015 is amended as follows.

Commencement Information

I72 [Sch. 6 para. 23](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 24 In section 51(4) (regulations subject to confirmatory procedure), omit the “or” after paragraph (e) and at the end of paragraph (f) insert “, or
- (g) the first regulations under paragraph 1 or 3 of that Schedule that make provision in relation to collective money purchase schemes within the meaning of Part 2 of the Pension Schemes Act 2021 (see section 52 of that Act).”

Commencement Information

I73 [Sch. 6 para. 24](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(a\)](#)

- 25 (1) Schedule 18 (power to restrict charges or impose requirements in relation to schemes) is amended as follows.

Status: Point in time view as at 29/09/2021.

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

(2) In paragraph 1(1) (power to restrict charges), in each of paragraphs (a) and (b), for “a member” substitute “ members ”.

(3) In paragraph 4 (interpretation), after sub-paragraph (2) insert—

“(3) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Schedule as a separate scheme.”

Commencement Information

I74 Sch. 6 para. 25 in force at Royal Assent for specified purposes, see s. 131(3)(a)

SCHEDULE 7

Section 116

THE PENSIONS REGULATOR: MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 01/10/2021

Pensions Act 1995 (c. 26)

1 In section 10 of the Pensions Act 1995 (civil penalties), after subsection (9) insert—

“(10) The Authority may not require a person to pay a penalty under this section in respect of an act or omission if the Authority have issued a notice to the person under section 88A of the Pensions Act 2004 (financial penalties) in respect of the same act or omission.”

Pensions Act 2004 (c. 35)

2 The Pensions Act 2004 is amended as follows.

Commencement Information

I75 Sch. 7 para. 2 in force at 31.5.2021 for specified purposes by S.I. 2021/620, reg. 2(2)(a)

I76 Sch. 7 para. 2 in force at 25.6.2021 for specified purposes by S.I. 2021/752, reg. 2(a)

VALID FROM 01/10/2021

3 In section 38B (section 38 contribution notice issued by reference to material detriment test: defence), in subsection (12), for paragraph (b) substitute—

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

Status: Point in time view as at 29/09/2021.

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

VALID FROM 01/10/2021

- 4 In section 75 (inspection of premises: powers of inspectors), in subsection (1)—
- (a) after “subsection (1),” insert “ (2A), ”;
 - (b) for “(3) or (4)” substitute “ (3), (4) or (5A) ”.

VALID FROM 01/10/2021

- 5 (1) Section 76 (inspection of premises: supplementary) is amended as follows.
- (2) In subsection (3)(a)—
- (a) after “virtue of”, in the second place it occurs, insert “ section 77A, 77B or 88A of this Act, ”;
 - (b) for “either of them” substitute “ any of those provisions ”.
- (3) In subsection (9)—
- (a) after “(1),” insert “ (2A), ”;
 - (b) for “(3) or (4)” substitute “ (3), (4) or (5A) ”.

VALID FROM 01/10/2021

- 6 In section 78 (warrants), in subsection (1)(c)(iii)—
- (a) after “virtue of”, in the first place it occurs, insert “ section 77A, 77B or 88A of this Act, ”;
 - (b) for “either of them” substitute “ any of those provisions ”.

VALID FROM 01/10/2021

- 7 (1) Section 80 (offences of providing false or misleading information) is amended as follows.
- (2) In subsection (1)(a), after sub-paragraph (iii) insert—
- “(iiia) section 72A (interviews),”.
- (3) In subsection (1)(c), for “under this Act or the Pensions Act 1995 (c. 26)” substitute “under—
- (i) the Pensions Act 1995,
 - (ii) this Act,
 - (iii) the Pensions Act 2008,
 - (iv) Schedule 18 to the Pensions Act 2014,
 - (v) the Pension Schemes Act 2017, or
 - (vi) Part 1 of the Pension Schemes Act 2021”.

- 8 In section 90 (codes of practice), in subsection (2)—
- (a) in paragraph (aa), after “test” insert “ , the employer insolvency test or the employer resources test ”;
 - (b) after paragraph (b) insert—

Status: Point in time view as at 29/09/2021.

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

“(ba) the discharge of the duties imposed by section 69A (duty to give notices and statements to the Regulator in respect of certain events);”.

Commencement Information

I77 Sch. 7 para. 8(a) in force at 31.5.2021 by S.I. 2021/620, reg. 2(2)(d)

VALID FROM 01/10/2021

- 9 (1) Section 96 (the Regulator's standard procedure in relation to its regulatory functions) is amended as follows.
- (2) In subsection (1A)(b), after “test” insert “, the employer insolvency test or the employer resources test”.
- (3) In subsection (1B)—
- (a) in paragraph (a), after “38B,” insert “ 38D or 38F (as the case may be) ”;
 - (b) in paragraph (b), for “subsection (2) of that section” substitute “ section 38B(2), 38D(2) and (3) or 38F(2) (as the case may be) ”.

VALID FROM 01/10/2021

- 10 In section 256 (no indemnification for fines or civil penalties), in subsection (1) (b), after “virtue of” insert “ section 77A, 77B or 88A of this Act, ”.

VALID FROM 01/10/2021

- 11 (1) Section 310 (admissibility of statements) is amended as follows.
- (2) In subsection (3)(b)—
- (a) after “financial penalty” insert “ on a relevant ground ”;
 - (b) after “virtue of—” insert—
 - “(ai) section 88A (financial penalties),”;
 - (c) for sub-paragraph (i) (and the “or” following it) substitute—
 - “(i) section 168 of the Pension Schemes Act 1993 (breach of regulations),
 - (ia) section 10 of the Pensions Act 1995 (civil penalties),
 - (ib) paragraph 10 of Schedule 17 to the Pensions Act 2014 (penalties for contravention of regulations etc),
 - (ic) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc),”;
 - (d) for sub-paragraph (ii) substitute—
 - “(ii) section 164 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (breach of regulations),

Status: Point in time view as at 29/09/2021.

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

- (iii) Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties),
- (iv) Article 83A of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (financial penalties),
- (v) Article 215G of that Order (penalties for contravention of regulations under Article 215D),
- (vi) paragraph 10 of Schedule 17 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) (penalties for contravention of regulations etc), or
- (vii) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc).”

(3) After subsection (3) insert—

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

- (a) section 88A as it applies by virtue of—
 - (i) section 80A (financial penalty for providing false or misleading information to Regulator), or
 - (ii) section 80B (financial penalty for providing false or misleading information to trustees or managers), or
- (b) Article 83A of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) as it applies by virtue of—
 - (i) Article 75A of that Order (financial penalty for providing false or misleading information to Regulator), or
 - (ii) Article 75B of that Order (financial penalty for providing false or misleading information to trustees or managers).”

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

“(ca) section 72A (requirement to attend interview etc);”.

- 12 (1) Section 316 (Parliamentary control of subordinate legislation) is amended as follows.
- (2) In subsection (2) (regulations and orders subject to affirmative procedure), after paragraph (za) insert—
- “(zaa) regulations under section 38E(2)(a) (section 38 contribution notice: constitution of resources of employer);
 - “(zab) regulations under section 38E(2)(b) (section 38 contribution notice: valuation of resources of employer);”.
- (3) In subsection (2), after paragraph (zb) insert—
- “(zc) regulations under section 58A(1) (offence of avoidance of employer debt: power to except certain schemes);
 - “(zd) regulations under section 58B(1) (offence of conduct risking accrued scheme benefits: power to except certain schemes);
 - “(ze) regulations under section 58C(1) (financial penalty for avoidance of employer debt: power to except certain schemes);

Status: Point in time view as at 29/09/2021.

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

- (zf) regulations under section 58D(1) (financial penalty for conduct risking accrued scheme benefits: power to except certain schemes);
- (zg) regulations under section 73(5B)(a) (inspection of premises: power to specify provisions by reference to which there may be inspection);
- (zh) regulations under section 88A(3) (financial penalties: power to amend maximum amount of penalty);”.

Commencement Information

I78 Sch. 7 para. 12(1) in force at 25.6.2021 for specified purposes by S.I. 2021/752, **reg. 2(a)**

I79 Sch. 7 para. 12(2) in force at 25.6.2021 by S.I. 2021/752, **reg. 2(b)**

VALID FROM 29/06/2022

- 13 (1) In Schedule 1 (the Pensions Regulator), in Part 4 (proceedings and delegation etc), paragraph 21(2) is amended as follows.
- (2) After paragraph (d) insert—
- “(da) the power to issue a notice under section 72A;
 - (db) the power to issue a fixed penalty notice under section 77A;
 - (dc) the power to issue an escalating penalty notice under section 77B;
 - (dd) the power to require payment of a penalty under section 88A;”.
- (3) After paragraph (o) insert—
- “(p) the power to issue a fixed penalty notice under section 17 of the Pension Schemes Act 2017;
 - (q) the power to issue an escalating penalty notice under section 18 of that Act.”

VALID FROM 29/06/2022

- 14 In Schedule 2 (the reserved regulatory functions), after paragraph 41 insert—
- “41A The power to require a person to pay a penalty under section 88A.”

VALID FROM 29/06/2022

- Pensions Act 2008 (c. 30)*
- 15 The Pensions Act 2008 is amended as follows.
- 16 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 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.”
- 17 In section 41 (escalating penalty notices), in subsection (1)—

Status: Point in time view as at 29/09/2021.

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

- (a) omit the “or” after paragraph (c);
- (b) after paragraph (d) insert “, 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.”

VALID FROM 29/06/2022

Pension Schemes Act 2017 (c. 17)

- 18 The Pension Schemes Act 2017 is amended as follows.
- 19 (1) Section 17 (fixed penalty notice for failure to comply with request for information) is amended as follows.
- (2) In the title, at the end insert “ etc ”.
 - (3) In subsection (1)—
 - (a) for “with a” substitute “with—
 - (a) a”;
 - (b) after “Part” insert “, or
 - (b) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of the Regulator’s functions under or by virtue of this Part”.
- 20 (1) Section 18 (escalating penalty notice for failure to comply with request for information) is amended as follows.
- (2) In the title, at the end insert “ etc ”.
 - (3) In subsection (1)—
 - (a) for “with a” substitute “with—
 - (a) a”;
 - (b) after “notice”)” insert “, or
 - (b) a notice issued under section 72A of that Act (interviews), so far as relevant to the exercise of any of the Regulator’s functions under or by virtue of this Part (a “section 72A notice”)”.
 - (4) In subsection (2)(a), after “72 notice” insert “ or the section 72A notice ”.
 - (5) In subsection (3), after “72 notice” insert “ or a section 72A notice ”.
 - (6) In subsection (6)—
 - (a) in paragraph (b), after “notice” insert “ or the section 72A notice ”;
 - (b) in paragraph (e), after “notice” insert “ or the section 72A notice ”.

Status: Point in time view as at 29/09/2021.

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

SCHEDULE 8

Section 117

THE PENSIONS REGULATOR: NORTHERN IRELAND

PART 1

AMENDMENTS OF THE PENSIONS (NORTHERN IRELAND) ORDER 2005

Introductory

- 1 The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) is amended as follows.

Commencement Information

I80 Sch. 8 para. 1 in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(a)

Grounds for issuing an Article 34 contribution notice

- 2 (1) In Article 34 (contribution notices where avoidance of employer debt)—
- (a) in paragraph (5)(a)—
 - (i) after “test” insert “, the employer insolvency test or the employer resources test”;
 - (ii) for “Article 34A)” substitute “ Articles 34A, 34C and 34E)”;
 - (b) in paragraph (12)(c), after “test” insert “, the employer insolvency test or the employer resources test”.
- (2) After Article 34B insert—

“Article 34 contribution notice: meaning of “employer insolvency test”

- 34C (1) For the purposes of Article 34 the employer insolvency test is met in relation to an act or failure to act if the Regulator is of the opinion that—
- (a) immediately after the relevant time, the value of the assets of the scheme was less than the amount of the liabilities of the scheme, and
 - (b) if a debt under Article 75(4) of the 1995 Order (deficiencies in scheme assets: employer insolvency etc) had fallen due from the employer to the scheme immediately after the relevant time, the act or failure would have materially reduced the amount of the debt likely to be recovered by the scheme.
- (2) For the purposes of paragraph (1)—
- (a) the value of the assets of the scheme immediately after the relevant time is the value which the Regulator estimates to be their value,
 - (b) the amount of the liabilities of the scheme immediately after the relevant time is the amount which the Regulator estimates to be the amount of those liabilities, and
 - (c) the amount of the debt is the amount which the Regulator estimates to be the amount of the debt under Article 75(4) of the 1995 Order that would have fallen due immediately after the relevant time.

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

- (3) When estimating the value and the amounts referred to in paragraph (2), the Regulator must take into account how assets and liabilities, and their value or amount, are determined and calculated for the purposes of Article 75(4) of the 1995 Order.
- (4) When estimating—
- (a) the value of the assets of the scheme immediately after the relevant time, and
 - (b) the amount of the debt under Article 75(4) of the 1995 Order falling due immediately after the relevant time,
- the Regulator must disregard the amount of any debt due immediately after the relevant time from the employer under Article 75 of the 1995 Order.
- (5) In this Article “the relevant time” means—
- (a) in the case of an act, the time of the act, or
 - (b) in the case of a failure to act—
 - (i) the time when the failure occurred, or
 - (ii) where the failure continued for a period of time, the time which the Regulator determines and which falls within that period;
- and, in the case of acts or failures to act forming part of a series, any reference in this paragraph to an act or failure to act is a reference to the last of the acts or failures in that series.

*Article 34 contribution notice issued by
 reference to employer insolvency test: defence*

- 34D(1) This Article applies where—
- (a) a warning notice is given to any person (“P”) in respect of a contribution notice under Article 34, and
 - (b) the contribution notice under consideration would be issued wholly or partly by reference to the Regulator's opinion that the employer insolvency test is met in relation to an act or deliberate failure to act to which P was a party.
- (2) If the Regulator is satisfied that P has shown that—
- (a) conditions A and C are met, and
 - (b) where applicable, condition B is met,
- the Regulator must not issue the contribution notice by reference to its being of the opinion mentioned in paragraph (1)(b).
- (3) If the Regulator is satisfied that P or another person has shown that condition D is met, the Regulator must not issue the contribution notice by reference to its being of the opinion mentioned in paragraph (1)(b).
- (4) Condition A is that, before becoming a party to the act or failure, P gave due consideration to the extent to which, if a debt under Article 75(4) of the 1995 Order were to fall due from the employer to the scheme—
- (a) immediately after the act or failure, or
 - (b) where the failure might continue for a period of time, at any time within that period,

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

the act or failure might materially reduce the amount of the debt likely to be recovered by the scheme.

- (5) Condition B is that, in any case where as a result of that consideration P considered that the act or failure might have such an effect, P took all reasonable steps to eliminate or minimise the potential for the act or failure to have such an effect.
- (6) Condition C is that, having regard to all relevant circumstances prevailing at the time of the act or at the time when the failure to act first occurred, it was reasonable for P to conclude that, if a debt under Article 75(4) of the 1995 Order were to fall due from the employer to the scheme—
- (a) immediately after the act or failure, or
 - (b) where the failure might continue for a period of time, at any time within that period,
- the act or failure would not materially reduce the amount of the debt likely to be recovered by the scheme.
- (7) Condition D is that, immediately after the relevant time, the value of the assets of the scheme equalled or was more than the amount at that time of the liabilities of the scheme.
- (8) P is to be regarded as giving the consideration mentioned in condition A only if P has made the enquiries, and done the other acts, that a reasonably diligent person would have made or done in the circumstances.
- (9) For the purposes of condition C the reference to the circumstances mentioned in that condition is a reference to those circumstances of which P was aware, or ought reasonably to have been aware, at the time of the act or the time when the failure to act first occurred (including acts or failures to act which have occurred before that time and P's expectation at that time of other acts or failures to act occurring).
- (10) For the purposes of conditions A, C and D the amount of any debt due at the time in question from the employer under Article 75 of the 1995 Order is to be disregarded.
- (11) In the case of acts or failures to act forming part of a series, P is to be regarded as having shown the matters mentioned in paragraph (2) if P shows in the case of each of the acts or failures in the series that—
- (a) conditions A and C are met, and (where applicable) condition B is met, in relation to the act or failure, or
 - (b) the act or failure was one of a number of acts or failures (a “group” of acts or failures) selected by P in relation to which the following matters are shown.
- (12) The matters to be shown are that—
- (a) before becoming a party to the first of the acts or failures in the group, condition A is met in relation to the effect of the acts or failures in the group taken together,
 - (b) condition B is (where applicable) met in relation to that effect, and
 - (c) condition C is then met in relation to each of the acts or failures in the group (determined at the time at which each act or failure concerned occurred or first occurred).

Status: Point in time view as at 29/09/2021.

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

- (13) If at any time P considers that condition C will not be met in relation to any particular act or failure in the group—
- (a) the previous acts or failures in the group are to be regarded as a separate group for the purposes of paragraph (11), and
 - (b) P may then select another group consisting of the particular act or failure concerned, and any subsequent act or failure, in relation to which P shows the matters mentioned in paragraph (12).

Nothing in sub-paragraph (b) is to be read as preventing P from showing the matters mentioned in paragraph (11)(a).

- (14) If—
- (a) P is unable to show in the case of each of the acts or failures in the series that the matters set out in paragraph (11)(a) or (b) are met, but
 - (b) does show in the case of some of them that those matters are met,
- the acts or failures within sub-paragraph (b) are not to count for the purposes of Article 34C as acts or failures to act in the series.
- (15) In this Article—
- (a) “the relevant time” has the meaning given by Article 34C;
 - (b) “a warning notice” means a notice given as mentioned in Article 91(2)(a);
 - (c) a reference to a party to an act or failure to act includes a reference to a person who knowingly assists in the act or failure.”

- (3) After Article 34D (inserted by sub-paragraph (2)) insert—

Article 34 contribution notice: meaning of “employer resources test”

- “34H(1) For the purposes of Article 34 the employer resources test is met in relation to an act or failure to act if the Regulator is of the opinion that—
- (a) the act or failure reduced the value of the resources of the employer, and
 - (b) that reduction was a material reduction relative to the estimated Article 75 debt in relation to the scheme.
- (2) For the purposes of this Article—
- (a) what constitutes the resources of the employer is to be determined in accordance with regulations;
 - (b) the value of the resources of the employer is to be determined, calculated and verified in a prescribed manner.
- (3) In this Article the “estimated Article 75 debt” means the amount which the Regulator estimates to be the amount of the debt which would become due from the employer to the trustees or managers of the scheme under Article 75 of the 1995 Order (deficiencies in the scheme assets) if—
- (a) Article 75(2) applied, and
 - (b) the time designated by the trustees or managers of the scheme for the purposes of Article 75(2) were the relevant time.

Status: Point in time view as at 29/09/2021.

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

- (4) When calculating the estimated Article 75 debt under paragraph (3), the amount of any debt due at the relevant time from the employer under Article 75 of the 1995 Order is to be disregarded.
- (5) In this Article “the relevant time” means—
 - (a) in a case where the act or failure to act forms part of a series of acts or failures to act, the time immediately before the first of the acts occurred or the first of the failures to act first occurred;
 - (b) in any other case, the time immediately before the act occurred or the failure to act first occurred.

Article 34 contribution notice issued by reference to employer resources test: defence

34F (1) This Article applies where—

- (a) a warning notice is given to any person (“P”) in respect of a contribution notice under Article 34, and
 - (b) the contribution notice under consideration would be issued wholly or partly by reference to the Regulator's opinion that the employer resources test is met in relation to an act or deliberate failure to act to which P was a party.
- (2) If the Regulator is satisfied that P has shown that—
- (a) conditions A and C are met, and
 - (b) where applicable, condition B is met,
- the Regulator must not issue the contribution notice by reference to its being of the opinion mentioned in paragraph (1)(b).
- (3) Condition A is that, before becoming a party to the act or failure, P gave due consideration to the extent to which the act or failure might reduce the value of the resources of the employer relative to the estimated Article 75 debt in relation to the scheme.
 - (4) Condition B is that, in any case where as a result of that consideration P considered that the act or failure might have such an effect, P took all reasonable steps to eliminate or minimise the potential for the act or failure to have such an effect.
 - (5) Condition C is that, having regard to all relevant circumstances prevailing at the time of the act or at the time when the failure to act first occurred, it was reasonable for P to conclude that the act or failure would not bring about a reduction in the value of the resources of the employer that would be a material reduction relative to the estimated Article 75 debt in relation to the scheme.
 - (6) P is to be regarded as giving the consideration mentioned in condition A only if P has made the enquiries, and done the other acts, that a reasonably diligent person would have made or done in the circumstances.
 - (7) For the purposes of condition C the reference to the circumstances mentioned in that condition is a reference to those circumstances of which P was aware, or ought reasonably to have been aware, at the time of the act or the time when the failure to act first occurred (including acts or failures to act which

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

have occurred before that time and P's expectation at that time of other acts or failures to act occurring).

- (8) For the purposes of conditions A and C—
- (a) the “estimated Article 75 debt” means the amount which is a reasonable estimate of the amount of the debt which would become due from the employer to the trustees or managers of the scheme under Article 75 of the 1995 Order (deficiencies in the scheme assets) if—
 - (i) Article 75(2) applied, and
 - (ii) the time designated by the trustees or managers of the scheme for the purposes of Article 75(2) were the time immediately before the act occurred or the failure to act first occurred;
 - (b) the amount of any debt due at the time in question from the employer under Article 75 of the 1995 Order is to be disregarded.
- (9) In the case of acts or failures to act forming part of a series, P is to be regarded as having shown the matters mentioned in paragraph (2) if P shows in the case of each of the acts or failures in the series that—
- (a) conditions A and C are met, and (where applicable) condition B is met, in relation to the act or failure, or
 - (b) the act or failure was one of a number of acts or failures (a “group” of acts or failures) selected by P in relation to which the following matters are shown.
- (10) The matters to be shown are that—
- (a) before becoming a party to the first of the acts or failures in the group, condition A is met in relation to the effect of the acts or failures in the group taken together,
 - (b) condition B is (where applicable) met in relation to that effect, and
 - (c) condition C is then met in relation to each of the acts or failures in the group (determined at the time at which each act or failure concerned occurred or first occurred).
- (11) If at any time P considers that condition C will not be met in relation to any particular act or failure in the group—
- (a) the previous acts or failures in the group are to be regarded as a separate group for the purposes of paragraph (9), and
 - (b) P may then select another group consisting of the particular act or failure concerned, and any subsequent act or failure, in relation to which P shows the matters mentioned in paragraph (10).

Nothing in sub-paragraph (b) is to be read as preventing P from showing the matters mentioned in paragraph (9)(a).

- (12) If—
- (a) P is unable to show in the case of each of the acts or failures in the series that the matters set out in paragraph (9)(a) or (b) are met, but
 - (b) does show in the case of some of them that those matters are met,
- the acts or failures within sub-paragraph (b) are not to count for the purposes of Article 34E as acts or failures to act in the series.

Status: Point in time view as at 29/09/2021.

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

(13) In this Article—

- (a) Article 34E(2) (the resources of the employer and their value) has effect for the purpose of this Article as it has effect for the purposes of Article 34E;
- (b) “a warning notice” means a notice given as mentioned in Article 91(2)(a);
- (c) a reference to a party to an act or failure to act includes a reference to a person who knowingly assists in the act or failure.”

Commencement Information

I81 Sch. 8 para. 2(3) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(c)

VALID FROM 01/10/2021

Reasonableness of issuing contribution notice

- 3
- (1) Article 34 (contribution notices where avoidance of employer debt) is amended as follows.
 - (2) In paragraph (7) (matters that may be relevant to imposing liability), after sub-paragraph (d) insert—
 - “(da) if the act or failure to act was a notifiable event for the purposes of Article 64A (duty to give notices and statements to the Regulator in respect of certain events), any failure by the person to comply with any obligation imposed on the person by Article 64A,”.
 - (3) In paragraph (7), after sub-paragraph (eb) insert—
 - “(ec) the effect of the act or failure to act on the value of the assets or liabilities of the scheme or any relevant transferee scheme,”.
 - (4) After paragraph (7A) insert—
 - “(7B) In paragraph (7)(ec) “relevant transferee scheme” and the reference to the assets or liabilities of any relevant transferee scheme have the same meaning as in Article 34A.”

Commencement Information

- I82** Sch. 8 para. 3(1) in force at 1.10.2021 for specified purposes by S.R. 2021/271, art. 2(3)(a) (with art. 3(1)(2))
- I83** Sch. 8 para. 3(3)(4) in force at 1.10.2021 by S.R. 2021/271, art. 2(3)(a) (with art. 3(1)(2))

Status: Point in time view as at 29/09/2021.

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

VALID FROM 01/10/2021

Determination of sum specified in a contribution notice

- 4 (1) Article 35 (the sum specified in an Article 34 contribution notice) is amended as follows.
- (2) For paragraph (4) substitute—
- “(4) For the purposes of this Article “the relevant time” means the end of the scheme year which ended most recently before the day on which the Regulator gives a determination notice under Article 91(2)(d) in respect of an intended contribution notice under Article 34.”
- (3) Omit paragraph (4A).

Commencement Information

I84 Sch. 8 para. 4 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(3\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))

VALID FROM 01/10/2021

Sanctions for failure to comply with a contribution notice

- 5 (1) In Article 36 (content and effect of an Article 34 contribution notice)—
- (a) after paragraph (2) insert—
- “(2A) Without prejudice to paragraphs (3) and (7), the contribution notice must also specify a date for the purposes of Articles 38A(2) and 38B(2) (sanctions for failure to comply with a contribution notice).”;
- (b) in paragraph (9), after sub-paragraph (b) (and before the “and”) insert—
- “(ba) specifies the same date for the purposes of Articles 38A(2) and 38B(2) as is specified in P’s contribution notice.”.
- (2) In Article 37 (Article 34 contribution notice: relationship with employer debt)—
- (a) after paragraph (8) insert—
- “(8A) An application under paragraph (7) may not be made after—
- (a) the date specified under Article 36(2A) for the purposes of Articles 38A(2) and 38B(2) (sanctions for failure to comply with a contribution notice), or
- (b) if a different date has effect instead of that date (see paragraphs (10A) and (11B)), that different date.”;
- (b) after paragraph (10) insert—
- “(10A) Where an application under paragraph (7) is made to the Regulator, the Regulator may, if it is of the opinion that it is appropriate to do so—

Status: Point in time view as at 29/09/2021.

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

- (a) change the date that has effect for the purposes of Articles 38A(2) and 38B(2) (whether specified in the contribution notice or an earlier revised contribution notice), and
- (b) specify the revised date in the revised contribution notice issued under paragraph (9)(b) or, if the Regulator does not issue a revised contribution notice under paragraph (9)(b), issue a revised contribution notice specifying the revised date.”;
- (c) after paragraph (11) insert—
 - “(11A) Paragraph (11B) applies where—
 - (a) P's contribution notice specifies that P is jointly and severally liable for the debt with other persons, and
 - (b) the Regulator issues a revised contribution notice to P under paragraph (9)(b) or (10A)(b) specifying a revised date for the purposes of Articles 38A(2) and 38B(2).
 - (11B) Where this paragraph applies, the Regulator must—
 - (a) change the date that has effect for the purposes of Articles 38A(2) and 38B(2) in the case of the contribution notices or revised contribution notices issued in respect of the debt to those other persons, and
 - (b) specify the revised date in the revised contribution notices issued to those other persons under paragraph (11) or, if the Regulator does not issue revised contribution notices under paragraph (11), issue revised contribution notices to those other persons specifying the revised date.”

(3) After Article 38 insert—

“Offence of failing to comply with an Article 34 contribution notice

38A(1) This Article applies where a contribution notice is issued to a person under Article 34.

(2) If the person, without reasonable excuse, fails to pay the debt due by virtue of the contribution notice to—

- (a) the trustees or managers of the scheme, or
- (b) the Board (as the case may be),

before the date specified in the contribution notice for the purposes of this paragraph (see Article 36(2A)), the person is guilty of an offence.

(3) A person guilty of an offence under paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Proceedings for an offence under paragraph (2) may not be instituted if an application under Article 37(7) has been made—

- (a) in relation to the contribution notice, or
- (b) in relation to a contribution notice which is a corresponding contribution notice for the purposes of Article 36(8),

and the application has not been determined, withdrawn or abandoned.

(5) Proceedings for an offence under paragraph (2) may be instituted only—

Status: Point in time view as at 29/09/2021.

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

- (a) by the Regulator or the Department, or
- (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.”

(4) After Article 38A (inserted by sub-paragraph (3)) insert—

“Financial penalty for failure to comply with an Article 34 contribution notice

38B (1) This Article applies where a contribution notice is issued to a person under Article 34.

(2) Article 83A (financial penalties) applies to the person if the person, without reasonable excuse, fails to pay the debt due by virtue of the contribution notice to—

- (a) the trustees or managers of the scheme, or
- (b) the Board (as the case may be),

before the date specified in the contribution notice for the purposes of this paragraph (see Article 36(2A)).

(3) The Regulator may not issue a warning notice to the person in respect of the imposition of a penalty under Article 83A as it applies by virtue of paragraph (2) if an application under Article 37(7) has been made—

- (a) in relation to the contribution notice, or
- (b) in relation to a contribution notice which is a corresponding contribution notice for the purposes of Article 36(8),

and the application has not been determined, withdrawn or abandoned.

(4) In this Article “warning notice” means a notice given as mentioned in Article 91(2)(a).”

Commencement Information

I85 Sch. 8 para. 5 in force at 1.10.2021 by S.R. 2021/271, art. 2(3)(c) (with art. 3(1)-(3))

VALID FROM 01/10/2021

Sanctions for avoidance of employer debt etc

6 (1) After Article 54 insert—

“Sanctions for avoidance of employer debt etc
Offence of avoidance of employer debt

54A(1) This Article applies in relation to an occupational pension scheme other than—

- (a) a money purchase scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.

(2) A person commits an offence only if—

- (a) the person does an act or engages in a course of conduct that—

Status: Point in time view as at 29/09/2021.

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

- (i) prevents the recovery of the whole or any part of a debt which is due from the employer in relation to the scheme under Article 75 of the 1995 Order (deficiencies in the scheme assets),
 - (ii) prevents such a debt becoming due,
 - (iii) compromises or otherwise settles such a debt, or
 - (iv) reduces the amount of such a debt which would otherwise become due,
 - (b) the person intended the act or course of conduct to have such an effect, and
 - (c) the person did not have a reasonable excuse for doing the act or engaging in the course of conduct.
- (3) A reference in this Article to an act or course of conduct includes a failure to act.
- (4) This Article does not apply to a person if the act done, or course of conduct engaged in, by the person is in accordance with the person's functions as an insolvency practitioner in relation to another person.
- (5) For the purposes of this Article a reference to a debt due under Article 75 of the 1995 Order includes a contingent debt under that Article.
- (6) Accordingly, in the case of such a contingent debt, the reference in paragraph (2)(a) to preventing a debt becoming due is to be read as including a reference to preventing the occurrence of any of the events specified in Article 75(4C)(a) or (b) of the 1995 Order upon which the debt is contingent.
- (7) A person guilty of an offence under paragraph (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine, or both.
- (8) Proceedings for an offence under paragraph (2) may be instituted only—
- (a) by the Regulator or the Department, or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (9) For the purposes of this Article and Articles 54B to 54D “insolvency practitioner”, in relation to a person, means—
- (a) a person acting as an insolvency practitioner, in relation to that person, in accordance with Article 3 of the Insolvency Order, or
 - (b) an insolvency practitioner within the meaning of Article 105(9)(b) (persons of a prescribed description).
- Offence of conduct risking accrued scheme benefits*
- 54B (1) This Article applies in relation to an occupational pension scheme other than—
- (a) a money purchase scheme, or
 - (b) a prescribed scheme or a scheme of a prescribed description.
- (2) A person commits an offence only if—

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- (a) the person does an act or engages in a course of conduct that detrimentally affects in a material way the likelihood of accrued scheme benefits being received (whether the benefits are to be received as benefits under the scheme or otherwise),
 - (b) the person knew or ought to have known that the act or course of conduct would have that effect, and
 - (c) the person did not have a reasonable excuse for doing the act or engaging in the course of conduct.
- (3) A reference in this Article to an act or a course of conduct includes a failure to act.
- (4) A reference in this Article to accrued scheme benefits being received is a reference to benefits the rights to which have accrued by the relevant time being received by, or in respect of, the persons who were members of the scheme before that time.
- (5) In this Article “the relevant time” means—
- (a) in the case of an act, the time of the act,
 - (b) in the case of a failure to act—
 - (i) the time when the failure occurred, or
 - (ii) where the failure continued for a period of time, the end of that period, or
 - (c) in the case of a course of conduct, the time when the course of conduct ended.
- (6) A reference in this Article to rights which have accrued is to be read in accordance with Article 67A(6) and (7) of the 1995 Order (reading any reference in those paragraphs to a subsisting right as a reference to a right which has accrued).
- (7) For the purposes of this Article the benefits that may be received under the following provisions are to be disregarded—
- (a) Chapter 3 of Part 3 (the Board of the Pension Protection Fund: pension protection), and
 - (b) section 286 of the Pensions Act 2004 (the financial assistance scheme for members of certain pension schemes).
- (8) This Article does not apply to a person if the act done, or course of conduct engaged in, by the person is in accordance with the person's functions as an insolvency practitioner in relation to another person (see Article 54A(9)).
- (9) A person guilty of an offence under paragraph (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine, or both.
- (10) Proceedings for an offence under paragraph (2) may be instituted only—
- (a) by the Regulator or the Department, or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.”

Status: Point in time view as at 29/09/2021.

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

(2) After Article 54B (inserted by sub-paragraph (1)) insert—

“Financial penalty for avoidance of employer debt

54C(1) This Article applies in relation to an occupational pension scheme other than—

- (a) a money purchase scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.

(2) Article 83A (financial penalties) applies to a person who was party to an act or deliberate failure to act the main purpose or one of the main purposes of which was—

- (a) to prevent the recovery of the whole or any part of a debt which is due from the employer in relation to the scheme under Article 75 of the 1995 Order (deficiencies in the scheme assets),
- (b) to prevent such a debt becoming due,
- (c) to compromise or otherwise settle such a debt, or
- (d) to reduce the amount of such a debt which would otherwise become due,

if it was not reasonable for the person to act or fail to act in the way that the person did.

(3) This Article does not apply where the Regulator is of the opinion that the person, in being a party to the act or failure, was acting in accordance with the person's functions as an insolvency practitioner in relation to another person (see Article 54A(9)).

(4) For the purposes of this Article a reference to a debt due under Article 75 of the 1995 Order includes a contingent debt under that Article.

(5) Accordingly, in the case of such a contingent debt, the reference in paragraph (2) to preventing a debt becoming due is to be read as including a reference to preventing the occurrence of any of the events specified in Article 75(4C)(a) or (b) of the 1995 Order upon which the debt is contingent.

(6) For the purposes of this Article the parties to an act or deliberate failure to act include those persons who knowingly assist in the act or failure.

(7) If the Regulator is of the opinion that—

- (a) a person was party to a series of acts or deliberate failures to act, and
- (b) the requirements of paragraph (2) are met in relation to the series, the series of acts or failures to act is to be regarded as an act or failure to act in relation to which the requirements of paragraph (2) are met.

Financial penalty for conduct risking accrued scheme benefits

54D(1) This Article applies in relation to an occupational pension scheme other than—

- (a) a money purchase scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.

Status: Point in time view as at 29/09/2021.

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

- (2) Article 83A (financial penalties) applies to a person who was party to an act or deliberate failure to act that detrimentally affected in a material way the likelihood of accrued scheme benefits being received (whether the benefits are to be received as benefits under the scheme or otherwise), if—
- (a) the person knew or ought to have known that the act or failure to act would have that effect, and
 - (b) it was not reasonable for the person to act or fail to act in the way that the person did.
- (3) This Article does not apply where the Regulator is of the opinion that the person, in being a party to the act or failure, was acting in accordance with the person's functions as an insolvency practitioner in relation to another person (see Article 54A(9)).
- (4) In this Article a reference to accrued scheme benefits being received is a reference to benefits the rights to which have accrued by the relevant time being received by, or in respect of, the persons who were members of the scheme before that time.
- (5) In this Article “the relevant time” means—
- (a) in the case of an act, the time of the act;
 - (b) in the case of a failure to act—
 - (i) the time when the failure to act occurred, or
 - (ii) where the failure continued for a period of time, the end of that period;
- and, in the case of acts or failures to act forming part of a series, any reference in this paragraph to an act or failure to act is a reference to the last of the acts or failures in that series.
- (6) A reference in this Article to rights which have accrued is to be read in accordance with Article 67A(6) and (7) of the 1995 Order (reading any reference in those paragraphs to a subsisting right as a reference to a right which has accrued).
- (7) In determining for the purposes of this Article whether an act or failure to act has detrimentally affected in a material way the likelihood of accrued scheme benefits being received, the following provisions are to be disregarded—
- (a) Chapter 3 of Part 3 (the Board of the Pension Protection Fund: pension protection), and
 - (b) section 286 of the Pensions Act 2004 (the financial assistance scheme for members of certain pension schemes).
- (8) For the purposes of this Article the parties to an act or deliberate failure to act include those persons who knowingly assist in the act or failure.
- (9) If the Regulator is of the opinion that—
- (a) a person was party to a series of acts or deliberate failures to act, and
 - (b) the requirements of paragraph (2) are met in relation to the series, the series of acts or failures to act is to be regarded as an act or failure to act in relation to which the requirements of paragraph (2) are met.”

Status: Point in time view as at 29/09/2021.

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

Commencement Information

186 Sch. 8 para. 6 in force at 1.10.2021 by S.R. 2021/271, art. 2(3)(d) (with art. 3(1)(4))

VALID FROM 01/10/2021

Duty to notify the Regulator of certain events

- 7 (1) In Article 64 (duty to notify the Regulator of certain events)—
- (a) in paragraph (7), for “Article 10 of the 1995 Order (civil penalties)” substitute “ Article 83A (financial penalties) ”;
 - (b) in paragraph (8), for “That Article” substitute “ Article 83A ”.
- (2) In Article 75 (offences of providing false or misleading information to the Regulator), in paragraph (1)(a), after head (ii) insert—
- “(iia) Article 64 (duty to notify the Regulator of certain events),”.

Commencement Information

187 Sch. 8 para. 7 in force at 1.10.2021 by S.R. 2021/271, art. 2(3)(e) (with arts. 4, 8)

Duty to give notices and statements to the Regulator in respect of certain events

- 8 (1) After Article 64 insert—

“Duty to give notices and statements to the Regulator in respect of certain events

- 64A(1) Except where the Regulator otherwise directs, the appropriate person must—
- (a) give notice to the Regulator of any notifiable event;
 - (b) give notice to the Regulator of any material change in, or in the expected effects of, a notifiable event;
 - (c) give notice to the Regulator if a notifiable event is not going to, or does not, take place.
- (2) In paragraph (1) “notifiable event” means a prescribed event in respect of the employer in relation to an eligible scheme.
- (3) For the purposes of paragraph (1) each of the following is “the appropriate person”—
- (a) the employer in relation to the scheme,
 - (b) a person connected with the employer,
 - (c) an associate of the employer, and
 - (d) a person of a prescribed description.
- (4) Regulations may make provision about the meaning of a “material change” for the purposes of this Article.
- (5) A notice under paragraph (1) must be given to the Regulator—

Status: Point in time view as at 29/09/2021.

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

- (a) in the case of a notice under paragraph (1)(a), as soon as reasonably practicable after the person giving it becomes aware of the notifiable event, subject to paragraph (6),
 - (b) in the case of a notice under paragraph (1)(b), as soon as reasonably practicable after the person giving it becomes aware of the material change, subject to paragraph (6), or
 - (c) in the case of a notice under paragraph (1)(c), as soon as reasonably practicable after the person giving it becomes aware that the notifiable event is not going to take place or (as the case may be) did not take place.
- (6) Regulations may require a notice under paragraph (1)(a) or (b) to be given before the beginning of the prescribed period ending with—
- (a) the notifiable event in question, or
 - (b) the material change in question.
- (7) A notice under paragraph (1)(a) or (b) must be accompanied by a statement (an “accompanying statement”).
- (8) An accompanying statement must contain prescribed information.
- (9) The information that may be prescribed under paragraph (8) includes, in particular—
- (a) a description of the event,
 - (b) a description of any adverse effects of the event on the eligible scheme,
 - (c) a description of any steps taken to mitigate those adverse effects, and
 - (d) a description of any communication with the trustees or managers of the eligible scheme about the event.
- (10) Where a person gives the Regulator a notice under paragraph (1), the person must give a copy of the notice and any accompanying statement to the trustees or managers of the eligible scheme at the same time.
- (11) A notice or accompanying statement under this Article must be in writing.
- (12) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a notice or accompanying statement under this Article.
- This is subject to Article 283 (protected items).
- (13) Article 83A (financial penalties) applies to a person who, without reasonable excuse, fails to comply with an obligation imposed on the person by this Article.
- (14) For the purposes of this Article—
- (a) Article 4 of the Insolvency Order (associated persons) applies as it applies for the purposes of that Order, and
 - (b) Article 7 of the Insolvency Order (connected persons) applies as it applies for the purposes of any provision of Parts 2 to 7 of that Order.
- (15) In this Article—
- “eligible scheme” has the meaning given by Article 110;

Status: Point in time view as at 29/09/2021.

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

“event” includes a failure to act.”

(2) In Article 75 (offences of providing false or misleading information to the Regulator), after paragraph (1)(a)(iia) (inserted by paragraph 7(2)) insert—

“(iib) Article 64A (duty to give notices and statements to the Regulator in respect of certain events).”

Commencement Information

188 Sch. 8 para. 8(1) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(d)

Interviews

9 (1) After Article 67 insert—

“Interviews

67A (1) The Regulator may, by notice in writing, require any person to whom Article 67(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 paragraph (1) must contain such other information as may be prescribed.”

(2) In Article 67 (provision of information), omit paragraphs (1A) and (1B).

(3) In Article 72 (penalties relating to Articles 67 to 70)—

(a) after paragraph (1) insert—

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

(a) to attend before the Regulator as required under Article 67A(1), or

(b) to answer a question or provide an explanation on a matter specified in the notice under Article 67A(1), when so attending before the Regulator,

is guilty of an offence.”;

(b) in paragraph (3), after “paragraph (1)” insert “, (1A) ”;

(c) in paragraph (4), after “paragraph (1)” insert “, (1A) ”.

Commencement Information

189 Sch. 8 para. 9(1) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(e)

VALID FROM 01/10/2021

Inspection of premises

10 (1) Article 68 (inspection of premises) is amended as follows.

Status: Point in time view as at 29/09/2021.

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

(2) In paragraph (2)—

(a) after sub-paragraph (da) insert—

“(db) Part 2 of the Pension Schemes Act 2021;”;

(b) in sub-paragraph (e)—

(i) at the beginning insert “ the Pension Schemes Act 2017 and ”;

(ii) for “(da)” substitute “ (db) ”.

(3) After paragraph (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 Article 34 (contribution notices where avoidance of employer debt),

(b) a financial support direction under Article 39 (financial support directions),

(c) a contribution notice under Article 43 (contribution notices where non-compliance with financial support direction),

(d) a restoration order under Article 48 (restoration orders where transactions at an undervalue),

(e) a contribution notice under Article 51 (contribution notice where failure to comply with restoration order), or

(f) a notice, direction or order under any corresponding provision in force in Great Britain,

at any reasonable time enter premises liable to inspection.”

(4) After paragraph (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 paragraph (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 Great Britain, corresponding to the provisions so prescribed.”

(5) In paragraph (6) (premises liable to inspection)—

(a) in sub-paragraph (b), omit the “or” at the end;

(b) after sub-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.”

Status: Point in time view as at 29/09/2021.

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

(6) After paragraph (6) insert—

“(6A) In the application of this Article in relation to a provision mentioned in paragraph (1), (2A), (3), (4) or (5A), references in this Article to “employer” are to be read as having the meaning that it has for the purposes of the provision in question.

(6B) In this Article 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 paragraph (7), for “this Article,” substitute “this Article—

“the pensions legislation” means any statutory provision contained in or made by virtue of—

- (a) the Pension Schemes Act,
- (b) Part 2 or Article 30 or 42 of the 1999 Order,
- (c) this Order,
- (d) Schedule 18 to the Pensions Act (Northern Ireland) 2015, or
- (e) section 51 or 52 of the Pension Schemes Act 2015;”.

Commencement Information

I90 Sch. 8 para. 10(1) in force at 1.10.2021 for specified purposes by [S.R. 2021/271](#), [art. 2\(3\)\(f\)](#)

I91 Sch. 8 para. 10(2)(b)(i)(3)-(7) in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(3\)\(f\)](#)

Fixed penalty notices and escalating penalty notices

11 After Article 72 (penalties relating to Articles 67 to 70) insert—

“Fixed penalty notices

72A(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 Article 67 or 67A,
- (b) has failed to comply with a requirement under Article 70, or
- (c) has prevented or hindered an inspector exercising any power under Article 68, 69 or 70.

(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;

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

- (d) specify the failure or conduct to which the penalty relates;
 - (e) state that the Regulator may issue an escalating penalty notice under Article 72B if the person fails to comply with a notice under Article 67 or 67A;
 - (f) notify the person to whom the notice is issued of the review process under section 43 of the Pensions (No. 2) Act (Northern Ireland) 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by paragraph (5)).
- (5) The following sections of the Pensions (No. 2) Act (Northern Ireland) 2008 apply to a penalty notice under this Article 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 Article does not apply in a case where section 40 of the Pensions (No. 2) Act (Northern Ireland) 2008 applies.

Escalating penalty notices

- 72B (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 Article 67 or 67A.
- (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 (No. 2) Act (Northern Ireland) 2008 (as applied by Article 72A(5)) in respect of a fixed penalty notice issued under Article 72A in relation to that notice under Article 67 or 67A, 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 Article 67 or 67A 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.
- (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 Article 67 or 67A 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;

Status: Point in time view as at 29/09/2021.

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

- (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 Article 72A(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 Article 67 or 67A 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 (No. 2) Act (Northern Ireland) 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by paragraph (7)).
- (7) The following sections of the Pensions (No. 2) Act (Northern Ireland) 2008 apply to an escalating penalty notice under this Article 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 Article does not apply in a case where section 41 of the Pensions (No. 2) Act (Northern Ireland) 2008 applies.”

Commencement Information

I92 Sch. 8 para. 11 in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(f)

VALID FROM 01/10/2021

Provision of false or misleading information to Regulator

12 After Article 75 (offences of providing false or misleading information) insert—

“Financial penalty for providing false or misleading information to Regulator

75A(1) Article 83A (financial penalties) applies to a person who has knowingly or recklessly provided the Regulator with information which is false or misleading in a material particular, if the information was provided to the Regulator in the circumstances mentioned in paragraph (2)(a), (b) or (c).

(2) The circumstances referred to in paragraph (1) are—

- (a) that the information was provided in purported compliance with a requirement under—
 - (i) Article 57 (the register: duties of trustees or managers),
 - (ii) Article 59 (duty of trustees or managers to provide scheme return),
 - (iii) Article 64 (duty to notify the Regulator of certain events),
 - (iv) Article 64A (duty to give notices and statements to the Regulator in respect of certain events),
 - (v) Article 67 (provision of information),

Status: Point in time view as at 29/09/2021.

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

- (vi) Article 67A (interviews),
- (vii) Article 70 (inspection of premises: powers of inspectors), or
- (viii) regulations under section 11 of the Pensions (No. 2) Act (Northern Ireland) 2008 (information about employers' duties to be given to the Regulator);
- (b) that the information is provided in applying for registration of a pension scheme under Article 4 of the 1999 Order (registration of stakeholder pension schemes);
- (c) that the information was provided otherwise than as mentioned in sub-paragraph (a) or (b) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Regulator for the purpose of exercising its functions 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

I93 Sch. 8 para. 12 in force at 1.10.2021 for specified purposes by [S.R. 2021/271](#), [art. 2\(3\)\(g\)](#) (with [art. 6](#))

VALID FROM 01/10/2021

13

Provision of false or misleading information to trustees or managers

After Article 75A (inserted by paragraph 12) insert—

“Financial penalty for providing false or misleading information to trustees or managers

- 75B (1) This Article applies in relation to an occupational pension scheme other than—
- (a) a money purchase scheme, or
 - (b) a prescribed scheme or a scheme of a prescribed description.
- (2) Article 83A (financial penalties) applies to a person who has knowingly or recklessly provided a trustee or manager of the scheme with information which is false or misleading in a material particular, if the information was provided to the trustee or manager of the scheme in the circumstances mentioned in paragraph (3)(a) or (b).
- (3) The circumstances referred to in paragraph (2) are—
- (a) that the information was provided in purported compliance with a requirement under—

Status: Point in time view as at 29/09/2021.

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

- (i) regulations under Article 9 of the Superannuation (Northern Ireland) Order 1972 (superannuation of persons employed in local government service etc),
 - (ii) regulations under section 109A of the Pension Schemes Act (power to require disclosure of information about transfers from one scheme to another),
 - (iii) Article 22(2B)(c) of the 1995 Order (insolvency practitioner or official receiver to give notice of certain events to trustees of scheme),
 - (iv) Article 26 of that Order (insolvency practitioner or official receiver to give information to trustees),
 - (v) regulations under Article 47(9) of that Order (power to impose duties on employers, auditors and actuaries to disclose information),
 - (vi) a direction under Article 72B of that Order (directions by Regulator for facilitating winding up of scheme);
- (b) that the information was provided otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the trustee or manager who receives it in that person's capacity as a trustee or manager of the scheme.”

Commencement Information

194 Sch. 8 para. 13 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(3\)\(h\)](#) (with [art. 7](#))

VALID FROM 01/10/2021

Financial penalties

14 After Article 83 insert—

“Financial penalties

Financial penalties

- 83A(1) Where the Regulator is satisfied that by reason of an act this Article applies to a person, the Regulator may issue a notice to the person requiring the person to pay a penalty in respect of that act of an amount specified in the notice within a period specified in the notice.
- (2) The amount of the penalty is to be an amount, not exceeding £1 million, determined by the Regulator.
 - (3) Regulations may amend paragraph (2) by substituting a higher amount for the amount for the time being specified in paragraph (2).
 - (4) The date on which the period specified in the notice ends must be at least 28 days after the date on which the notice is issued.

Status: Point in time view as at 29/09/2021.

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

- (5) The notice must specify the provision by virtue of which the penalty is imposed.
- (6) Where—
- (a) a penalty under this Article may, apart from this paragraph, be imposed on a body corporate, and
 - (b) the act in question was done with the consent or connivance of a director, manager, secretary or other similar officer of the body or a person purporting to act in any such capacity,
- this Article applies to that person.
- (7) Where the affairs of a body corporate are managed by its members, paragraph (6) applies in relation to the acts of a member in connection with the member's functions of management as to a director of a body corporate.
- (8) Where—
- (a) a penalty under this Article may, apart from this paragraph, be imposed on a Scottish partnership, and
 - (b) the act in question was done with the consent or connivance of a partner,
- this Article applies to that person.
- (9) If the Regulator requires a person to pay a penalty under this Article by virtue of paragraph (6) or (8), it may not also require the body corporate or the Scottish partnership to pay a penalty under this Article in respect of the same act.
- (10) The Regulator may not issue a notice under this Article to a person in relation to an act if—
- (a) the person has been convicted of an offence in respect of the same act, or
 - (b) criminal proceedings for the offence have been instituted against the person in respect of the act and the proceedings have not been concluded.
- (11) The Regulator may not issue a notice under this Article to a person in respect of an act if the Regulator has required the person to pay a penalty under Article 10 of the 1995 Order (civil penalties) in respect of the same act.
- (12) In this Article “act” includes omission.
- Financial penalties: time for recovery*
- 83B (1) Paragraph (3) applies where—
- (a) the Regulator is satisfied that Article 83A applies to a person by virtue of Article 54C or 54D (financial penalty for avoidance of employer debt etc),
 - (b) the Regulator issues a notice under Article 83A requiring the person to pay a penalty in respect of the act or failure to act in question, and

Status: Point in time view as at 29/09/2021.

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

- (c) when the notice under Article 83A is issued, the person is subject to one or more contribution notices issued under Article 34 (contribution notices where avoidance of employer debt).
- (2) Paragraph (3) does not apply if, when the notice under Article 83A is issued, a qualifying insolvency event has occurred in relation to the employer in relation to the scheme by reference to which the penalty under Article 83A is imposed.
- (3) The Regulator may not take any step to recover the penalty specified in the notice under Article 83A (including accepting an amount offered in payment or part payment of the penalty) until after—
- (a) the relevant date relating to the contribution notice or (as the case may be) the latest of the relevant dates relating to the contribution notices, or
 - (b) if sooner, the date on which a qualifying insolvency event occurs in relation to the employer in relation to the scheme by reference to which the penalty under Article 83A is imposed.
- (4) In this Article—
- “qualifying insolvency event” has the meaning given by Article 111(3);
 - “the relevant date” means, in relation to a contribution notice issued under Article 34—
- (a) the date specified under Article 36(2A) for the purposes of Articles 38A(2) and 38B(2), disregarding any date that has effect instead of that date by virtue of Article 37(10A) or (11B), or
 - (b) if sooner, the date on which the sum specified in the contribution notice is paid.

Financial penalties: recovery

- 83C (1) A penalty under Article 83A is recoverable by the Regulator.
- (2) Such a penalty is, if the county court so orders, recoverable under Article 4 of the Judgments Enforcement (Northern Ireland) Order 1981 or otherwise as if it were payable under an order of that court.
- (3) The Regulator must pay into the Consolidated Fund a penalty recovered under this Article.”

Commencement Information

195 Sch. 8 para. 14 in force at 1.10.2021 by S.R. 2021/271, art. 2(3)(i) (with art. 3(5))

Status: Point in time view as at 29/09/2021.

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

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 01/10/2021

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

I96 Sch. 8 para. 15 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(a\)](#)

- 16 *Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))*
 The Pensions (Northern Ireland) Order 2005 is amended as follows.

Commencement Information

I97 Sch. 8 para. 16 in force at 1.9.2021 for specified purposes by [S.R. 2021/240](#), [art. 2\(2\)\(a\)](#)

VALID FROM 01/10/2021

- 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

I98 Sch. 8 para. 17 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

VALID FROM 01/10/2021

- 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) ”.

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I99 Sch. 8 para. 18 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

VALID FROM 01/10/2021

- 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

I100 Sch. 8 para. 19 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

VALID FROM 01/10/2021

- 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

I101 Sch. 8 para. 20 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(c\)](#)

VALID FROM 01/10/2021

- 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

Status: Point in time view as at 29/09/2021.

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

(v) Part 2 of the Pension Schemes Act 2021”.

Commencement Information

I102 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—
 - “(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

I103 Sch. 8 para. 22(a) in force at 1.9.2021 by [S.R. 2021/240](#), [art. 2\(2\)\(c\)](#)

VALID FROM 01/10/2021

- 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

I104 Sch. 8 para. 23 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(f\)](#)

VALID FROM 01/10/2021

- 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

I105 Sch. 8 para. 24 in force at 1.10.2021 by [S.R. 2021/271](#), [art. 2\(4\)\(f\)](#)

Status: Point in time view as at 29/09/2021.

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

VALID FROM 01/10/2021

- 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),
 - (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—

Status: Point in time view as at 29/09/2021.

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

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

Commencement Information

I106 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);
 - (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

I107 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.”

Status: Point in time view as at 29/09/2021.

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

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.”

SCHEDULE 9

Section 120

PENSIONS DASHBOARDS: NORTHERN IRELAND

Introductory

- 1 The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) is amended as follows.

Commencement Information

I108 Sch. 9 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Qualifying pensions dashboard service

- 2 After Article 215 insert—

“Pensions dashboards

Qualifying pensions dashboard service

- 215A(1) A pensions dashboard service is an electronic communications service by means of which information about pensions may be requested by, and provided to, an individual or a person authorised by the individual.
- (2) “Qualifying pensions dashboard service” means a pensions dashboard service in relation to which prescribed requirements are satisfied.
 - (3) Requirements prescribed under paragraph (2) may, in particular, relate to—

Status: Point in time view as at 29/09/2021.

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

- (a) what relevant and other information is to be provided, how it is to be provided and the circumstances in which it is to be provided;
 - (b) how the pensions dashboard service is to be established, maintained and operated.
- (4) In paragraph (3)(a) “relevant information” means—
- (a) information of a prescribed description about—
 - (i) state pensions;
 - (ii) basic or additional retirement pensions;
 - (b) state pension information relating to the individual in question of such description as may be prescribed;
 - (c) information of a prescribed description about occupational or personal pension schemes or a prescribed description of occupational or personal pension schemes;
 - (d) information relating to the individual in question and particular occupational or personal pension schemes of such description as may be prescribed.
- (5) Requirements prescribed under paragraph (2) may, in particular—
- (a) require the pensions dashboard service to comply with standards, specifications or technical requirements published from time to time by—
 - (i) the Department,
 - (ii) the Money and Pensions Service, or
 - (iii) a person specified or of a description specified in the regulations;
 - (b) require the provider of the pensions dashboard service to satisfy prescribed conditions;
 - (c) require the provider of the pensions dashboard service to be a person approved from time to time by—
 - (i) the Department,
 - (ii) the Money and Pensions Service, or
 - (iii) a person specified or of a description specified in the regulations;
 - (d) require the provider of the pensions dashboard service to provide, or not to provide, information, facilities or services specified or of a description specified in connection with the pensions dashboard service.
- (6) Requirements prescribed under paragraph (2) may include provision under which a determination may fall to be made by—
- (a) the Department,
 - (b) the Money and Pensions Service, or
 - (c) a person specified or of a description specified in the regulations.

Qualifying pension dashboard service: further provision

- 215B) Requirements prescribed under Article 215A(2) may make provision about—
- (a) dealing with requests for information about pensions, including provision about the use of intermediaries;

Status: Point in time view as at 29/09/2021.

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

- (b) the involvement of the provider of a pensions dashboard service in the arrangements for dealing with requests for information about pensions.
- (2) Provision made by virtue of paragraph (1) may, in particular, require—
- (a) the use of electronic communications;
 - (b) the use of facilities or services specified or of a description specified in the regulations;
 - (c) the provision of assistance in connection with the establishment, maintenance or management of such facilities or services;
 - (d) participation in, or compliance with, arrangements for establishing, maintaining or managing such facilities or services.
- (3) The facilities and services for which provision may be made by virtue of paragraph (2)(b) may include facilities or services with functions relating to—
- (a) the transmission of information,
 - (b) verifying the identity of a person,
 - (c) identifying the occupational or personal pension scheme or schemes under which pensions are payable to or in respect of a particular individual,
 - (d) authenticating information transmitted by means of electronic communications, or
 - (e) ensuring the security of information transmitted by means of electronic communications.
- (4) Regulations under paragraph (2)(b) may impose requirements as regards a facility or service, including requirements about—
- (a) compliance with standards, specifications or technical requirements published from time to time by—
 - (i) the Department,
 - (ii) the Money and Pensions Service, or
 - (iii) a person specified or of a description specified in the regulations;
 - (b) the provider of the facility or service being a person approved from time to time by—
 - (i) the Department,
 - (ii) the Money and Pensions Service, or
 - (iii) a person specified or of a description specified in the regulations.
- (5) Regulations under paragraph (2)(d) may, in particular, require the provider of the pensions dashboard service—
- (a) to cooperate with the Money and Pensions Service or a person specified or of a description specified in the regulations;
 - (b) to coordinate activities with the Money and Pensions Service or a person specified or of a description specified in the regulations;
 - (c) to enable the Money and Pensions Service or a person specified or of a description specified in the regulations to monitor or audit compliance by the provider.

Status: Point in time view as at 29/09/2021.

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

- (6) Except as provided by paragraph (7), regulations under Article 215A(2) may provide for the processing of personal data in accordance with the regulations not to be in breach of—
- (a) any obligation of confidence owed by the person processing the personal data, or
 - (b) any other restriction on the processing of personal data (however imposed).
- (7) Regulations under Article 215A(2) are not to be read as authorising or requiring such processing of personal data as would contravene the data protection legislation (but in determining whether particular processing of data would do so, take into account the power conferred or duty imposed by the provision of regulations in question).

Articles 215A and 215B: interpretation

215(1) This Article applies for the purposes of Articles 215A and 215B.

- (2) A reference to state pension information, in relation to an individual, is a reference to the information about that individual specified in—
- (a) section 38(7) of the 2000 Act, or
 - (b) section 42(7) of the Child Support, Pensions and Social Security Act 2000.
- (3) A reference to the Money and Pensions Service includes a reference to a person with whom arrangements are made under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018.
- (4) In Articles 215A and 215B—
- “additional retirement pension” means—
- (a) any additional pension or shared additional pension under—
 - (i) the Contributions and Benefits Act, or
 - (ii) the Social Security Contributions and Benefits Act 1992, or
 - (b) any graduated retirement benefit under—
 - (i) sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966, or
 - (ii) sections 36 and 37 of the National Insurance Act 1965;
- “basic retirement pension” means any basic pension under—
- (a) the Contributions and Benefits Act, or
 - (b) the Social Security Contributions and Benefits Act 1992;
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “electronic communications service” has the meaning given by section 32 of the Communications Act 2003;
- “personal data” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “state pension” means any state pension under—
- (a) Part 1 of the Pensions Act (Northern Ireland) 2015, or
 - (b) Part 1 of the Pensions Act 2014.”

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I109 Sch. 9 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Information from occupational pension schemes

3 After Article 215C (inserted by paragraph 2) insert—

“Information from occupational pension schemes

215C(1) Regulations may impose requirements on the trustees or managers of a relevant occupational pension scheme with respect to—

- (a) providing pensions information by means of—
 - (i) a qualifying pensions dashboard service, or
 - (ii) the pensions dashboard service provided by the Money and Pensions Service;
- (b) facilitating the provision of pensions information by means of—
 - (i) a qualifying pensions dashboard service, or
 - (ii) the pensions dashboard service provided by the Money and Pensions Service.

(2) In this Article “pensions information” means, in relation to a relevant occupational pension scheme, such information as may be prescribed, which may include in particular—

- (a) information relating to—
 - (i) the constitution of the scheme,
 - (ii) the administration and finances of the scheme,
 - (iii) the rights and obligations that arise or may arise under the scheme,
 - (iv) the pensions and other benefits an entitlement to which would be likely to accrue to a member, or be capable of being secured by a member, in respect of the rights that may arise under the scheme, and
 - (v) other matters relevant to occupational pension schemes in general or to occupational pension schemes of a description to which the scheme belongs;
- (b) information as regards the position of an individual in relation to the scheme.

(3) Regulations under paragraph (1) may, in particular, impose requirements about—

- (a) the persons to whom pensions information must be provided;
- (b) the circumstances in which pensions information must be provided;
- (c) the steps to be taken before pensions information may be provided;
- (d) the manner and form in which pensions information must be provided;
- (e) the time within which pensions information must be provided;
- (f) the way in which pensions information must be held.

Status: Point in time view as at 29/09/2021.

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

- (4) Regulations under paragraph (1) may require the trustees or managers of a scheme to comply with standards, specifications or technical requirements published from time to time by—
 - (a) the Department,
 - (b) the Money and Pensions Service, or
 - (c) a person specified or of a description specified in the regulations.
- (5) Regulations under paragraph (1) may include provision under which a determination may fall to be made by—
 - (a) the Department,
 - (b) the Money and Pensions Service, or
 - (c) a person specified or of a description specified in the regulations.
- (6) Regulations under paragraph (1) may require the trustees or managers to provide prescribed information about their carrying out of requirements prescribed under this Article to—
 - (a) the Regulator,
 - (b) the Money and Pensions Service, or
 - (c) a person specified or of a description specified in the regulations.
- (7) In complying with requirements prescribed under this Article, a trustee or manager of an occupational pension scheme must have regard to guidance issued from time to time by—
 - (a) the Department, or
 - (b) a person specified or of a description specified in the regulations.

Information from occupational pension schemes: further provision

- 215E(1) Regulations under Article 215D(1) may make provision about—
 - (a) how pensions information is to be provided, including provision about the use of intermediaries;
 - (b) the involvement of the trustees or managers of a scheme in the arrangements for dealing with requests for information about pensions.
- (2) The provision made by virtue of paragraph (1) may, in particular, require—
 - (a) the use of electronic communications;
 - (b) the use of facilities or services specified or of a description specified in the regulations;
 - (c) the provision of assistance in connection with the establishment, maintenance or management of such facilities or services;
 - (d) participation in, or compliance with, arrangements for establishing, maintaining or managing such facilities or services.
- (3) The facilities and services for which provision may be made by virtue of paragraph (2)(b) may include facilities or services with functions relating to—
 - (a) the transmission of information,
 - (b) verifying the identity of a person,

Status: Point in time view as at 29/09/2021.

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

- (c) identifying the occupational or personal pension scheme or schemes under which pensions are payable to or in respect of a particular individual,
 - (d) authenticating information transmitted by means of electronic communications, or
 - (e) ensuring the security of information transmitted by means of electronic communications.
- (4) Regulations under paragraph (2)(b) may impose requirements as regards a facility or service, including requirements about—
- (a) compliance with standards, specifications or technical requirements published from time to time by—
 - (i) the Department,
 - (ii) the Money and Pensions Service, or
 - (iii) a person specified or of a description specified in the regulations;
 - (b) the provider of the facility or service being a person approved from time to time by—
 - (i) the Department,
 - (ii) the Money and Pensions Service, or
 - (iii) a person specified or of a description specified in the regulations.
- (5) Regulations under paragraph (2)(d) may, in particular, require the trustees or managers—
- (a) to cooperate with the Money and Pensions Service or other persons specified or of a description specified in the regulations;
 - (b) to coordinate activities with the Money and Pensions Service or other persons specified or of a description specified in the regulations.
- (6) Except as provided by paragraph (7), regulations under Article 215D(1) may provide for the processing of personal data in accordance with the regulations not to be in breach of—
- (a) any obligation of confidence owed by the person processing the personal data, or
 - (b) any other restriction on the processing of personal data (however imposed).
- (7) Regulations under Article 215D(1) are not to be read as authorising or requiring such processing of personal data as would contravene the data protection legislation (but in determining whether particular processing of data would do so, take into account the power conferred or duty imposed by the provision of regulations in question).

Articles 215D and 215E: interpretation

215(F) This Article has effect for the purposes of Articles 215D and 215E.

- (2) A reference to the Money and Pensions Service includes a reference to a person with whom arrangements are made under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018.

Status: Point in time view as at 29/09/2021.

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

- (3) In Articles 215D and 215E—
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “pensions dashboard service” means—
- (a) a pensions dashboard service within the meaning of Article 215A, or
 - (b) a pensions dashboard service within the meaning of section 238A of the Pensions Act 2004;
- “personal data” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “qualifying pensions dashboard service” means a pensions dashboard service that satisfies—
- (a) such requirements as may be prescribed by regulations under Article 215A, or
 - (b) such requirements as may be prescribed by regulations under section 238A of the Pensions Act 2004;
- “relevant occupational pension scheme” means an occupational pension scheme which is not a stakeholder pension scheme (as defined in Article 3 of the 1999 Order).

Compliance

- 215(1) Regulations may make provision with a view to securing that the trustees or managers of a relevant occupational pension scheme comply with a provision of regulations under Article 215D.
- (2) The regulations may, among other things—
- (a) provide for the Regulator to issue a notice (a “compliance notice”) to a person with a view to ensuring the person's compliance with a provision of regulations under Article 215D;
 - (b) provide for the Regulator to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person's compliance with a provision of the regulations;
 - (c) provide for the Regulator to issue a notice (a “penalty notice”) imposing a penalty on a person where the Regulator is of the opinion that the person—
 - (i) has failed to comply with a compliance notice or third party compliance notice, or
 - (ii) has contravened a provision of regulations under Article 215D;
 - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
 - (e) confer other functions on the Regulator.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

Status: Point in time view as at 29/09/2021.

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

- (a) £5,000, in the case of an individual, and
- (b) £50,000, in any other case.

(5) In this Article “relevant occupational pension scheme” has the meaning given by Article 215F.”

Commencement Information

I110 Sch. 9 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Admissibility of statements

- 4 In Article 282 (admissibility of statements), in paragraph (3)(b), after head (ai) (inserted by paragraph 25 of Schedule 8) insert—
- “(bi) Article 215G (penalties for contravention of regulations under Article 215D).”.

Commencement Information

I111 Sch. 9 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(a)

Assembly control of regulations

- 5 In Article 288 (Assembly etc control of orders and regulations), in paragraph (3) (orders and regulations subject to confirmatory procedure), after sub-paragraph (j) insert—
- “(ja) regulations under Article 215A (qualifying pensions dashboard service);
 - (jb) regulations under Article 215D (information from occupational pension schemes);
 - (jc) regulations under Article 215G (compliance with regulations under Article 215D).”.

Commencement Information

I112 Sch. 9 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(a)

The Pensions Regulator: delegation

- 6 In Schedule 1 (the Pensions Regulator), in Part 1 (delegation), in paragraph 2(2), after paragraph (e) insert—
- “(ea) the power to issue a compliance notice under regulations under Article 215G;
 - (eb) the power to issue a third party compliance notice under regulations under Article 215G;
 - (ec) the power to issue a penalty notice under regulations under Article 215G.”.

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I113 Sch. 9 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(a)

SCHEDULE 10

Section 123

FUNDING OF DEFINED BENEFIT SCHEMES

PART 1

AMENDMENTS OF PART 3 OF THE PENSIONS ACT 2004

1 Part 3 of the Pensions Act 2004 (scheme funding) is amended as follows.

Commencement Information

I114 Sch. 10 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(b)

2 Before section 222 insert—

Funding and investment strategy

“221A) The trustees or managers must determine, and from time to time review and if necessary revise, a strategy for ensuring that pensions and other benefits under the scheme can be provided over the long term.

This is referred to in this Part as a “funding and investment strategy”.

- (2) The strategy must, in particular, specify—
- (a) the funding level the trustees or managers intend the scheme to have achieved as at the relevant date or relevant dates, and
 - (b) the investments the trustees or managers intend the scheme to hold on the relevant date or relevant dates.
- (3) In subsection (2)—
- (a) “funding level” means the ratio of the scheme's assets to its liabilities;
 - (b) “relevant date” means a date determined in accordance with regulations.
- (4) Provision may be made by regulations—
- (a) requiring the trustees or managers of a scheme, in determining or revising a funding and investment strategy, to take into account prescribed matters and follow prescribed principles;
 - (b) as to the level of detail required in a funding and investment strategy;
 - (c) as to the period within which a funding and investment strategy must be determined;

Status: Point in time view as at 29/09/2021.

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

- (d) requiring a funding and investment strategy to be reviewed, and if necessary revised, at such intervals and on such occasions as may be prescribed.
- (5) The provision that may be made by virtue of subsection (4)(a) includes provision requiring the trustees or managers, in specifying a funding level for the purposes of subsection (2)(a), to adopt prescribed actuarial methods or assumptions.
- (6) Where any requirement of this section is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.

Statement of strategy

- 221B) The trustees or managers must, as soon as reasonably practicable after determining or revising the scheme's funding and investment strategy, prepare a written statement of—
- (a) the scheme's funding and investment strategy, and
 - (b) the supplementary matters set out in subsection (2).
- (2) The supplementary matters are—
- (a) the extent to which, in the opinion of the trustees or managers, the funding and investment strategy is being successfully implemented and, where it is not, the steps they propose to take to remedy the position (including details as to timing);
 - (b) the main risks faced by the scheme in implementing the funding and investment strategy and how the trustees or managers intend to mitigate or manage them;
 - (c) reflections of the trustees or managers on any significant decisions taken by them in the past that are relevant to the funding and investment strategy (including any lessons learned that have affected other decisions or may do so in the future);
 - (d) such other matters as may be prescribed.
- (3) In this Part—
- (a) a statement under subsection (1) is referred to as a “statement of strategy”;
 - (b) the text included in a statement of strategy by virtue of subsection (1) (a) is referred to as “Part 1” of the statement;
 - (c) the text included in a statement of strategy by virtue of subsection (1) (b) is referred to as “Part 2” of the statement.
- (4) The trustees or managers must from time to time, and at such times and on such occasions as may be prescribed—
- (a) review Part 2 of the scheme's statement of strategy, and
 - (b) if necessary in the light of that review, revise that Part and prepare a replacement statement of strategy incorporating it.
- (5) The trustees or managers must consult the employer when preparing or revising Part 2 of a statement of strategy.

Status: Point in time view as at 29/09/2021.

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

- (6) A statement of strategy prepared for a trust scheme must be signed on behalf of the trustees by a person who—
- (a) is the chair of the trustees, and
 - (b) meets such other conditions as may be prescribed.
- (7) Where subsection (6) cannot be complied with because the trustees of a trust scheme do not have a chair, they must appoint one.
- (8) Provision may be made by regulations—
- (a) requiring the trustees or managers of a scheme, in preparing or revising Part 2 of a statement of strategy, to take into account prescribed matters and follow prescribed principles;
 - (b) as to the level of detail required in Part 2 of a statement of strategy;
 - (c) as to the form of a statement of strategy;
 - (d) requiring the trustees or managers of a scheme to send a statement of strategy to the Regulator at such times and on such occasions as may be prescribed.
- (9) Where any requirement of this section is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.”

Commencement Information

I115 Sch. 10 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(b)

- 3 (1) Section 222 (the statutory funding objective) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The scheme's technical provisions shall be calculated in a way that is consistent with the scheme's funding and investment strategy, as set out in the scheme's statement of strategy.”
- (3) In subsection (3)(b), after “in a prescribed manner and” insert “, subject to subsection (2A),”.

Commencement Information

I116 Sch. 10 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(b)

- 4 (1) Section 224 (actuarial valuations and reports) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) As soon as reasonably practicable after receiving an actuarial valuation, the trustees or managers must send a copy of it to the Regulator, together with such other information as may be prescribed.”
- (3) In subsection (8), for “or (7)” substitute “, (7) or (7A)”.

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I117 Sch. 10 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(b)

5 In section 226 (recovery plan), after subsection (3) insert—

“(3A) Provision may be made by regulations as to the matters to be taken into account, or the principles to be followed, in determining for the purposes of subsection (3) whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme.”

Commencement Information

I118 Sch. 10 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(b)

6 In section 229 (matters requiring agreement of employer), in subsection (1), before paragraph (a) insert—

“(za) the scheme's funding and investment strategy, as set out in the scheme's statement of strategy;”.

Commencement Information

I119 Sch. 10 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(b)

7 (1) Section 231 (powers of the Regulator) is amended as follows.

(2) In subsection (1), before paragraph (za) insert—

“(zza) that the trustees or managers have failed to comply with any of the requirements of section 221A (funding and investment strategy) or regulations under that section;”.

(3) In subsection (2), after paragraph (a) insert—

“(aa) it may give a direction requiring the trustees or managers to revise the scheme's funding and investment strategy in accordance with the direction;”.

Commencement Information

I120 Sch. 10 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(b)

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

8 The Pensions Act 2004 is amended as follows.

Commencement Information

I121 Sch. 10 para. 8 in force at Royal Assent for specified purposes, see s. 131(3)(b)

Status: Point in time view as at 29/09/2021.

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

- 9 In section 60 (registrable information), in subsection (2), after paragraph (c) insert—
- “(ca) in the case of an occupational pension scheme established under a trust, the full name and address of any chair of the trustees;”.

Commencement Information

I122 Sch. 10 para. 9 in force at Royal Assent for specified purposes, see s. 131(3)(b)

- 10 In section 80 (offences of providing false or misleading information), in subsection (1)(a)—
- (a) omit the “or” at the end of sub-paragraph (iv);
- (b) after that sub-paragraph insert—
- “(iva) regulations under section 221B(8)(d) (duty of trustees or managers to provide statement of strategy), or”.

Commencement Information

I123 Sch. 10 para. 10 in force at Royal Assent for specified purposes, see s. 131(3)(b)

- 11 In section 316 (Parliamentary control of subordinate legislation), in subsection (2), after paragraph (i) insert—
- “(ia) the first regulations under section 221A(4)(a) and (b) (funding and investment strategy: matters to be taken into account etc and level of detail);
- (ib) the first regulations under section 221B(2)(d) (Part 2 of statement of strategy: additional matters to be included);
- (ic) the first regulations under section 221B(8)(a) and (b) (Part 2 of statement of strategy: matters to be taken into account etc and level of detail);”.

Commencement Information

I124 Sch. 10 para. 11 in force at Royal Assent for specified purposes, see s. 131(3)(b)

Status: Point in time view as at 29/09/2021.

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

SCHEDULE 11

Section 129

FURTHER PROVISION RELATING TO PENSION SCHEMES: NORTHERN IRELAND

PART 1

FUNDING OF DEFINED BENEFIT SCHEMES

Amendments of Part 4 of the Pensions (Northern Ireland) Order 2005

- 1 Part 4 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (scheme funding) is amended as follows.

Commencement Information

I125 Sch. 11 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 2 Before Article 201 insert—

“Funding and investment strategy

- 200A1) The trustees or managers must determine, and from time to time review and if necessary revise, a strategy for ensuring that pensions and other benefits under the scheme can be provided over the long term.

This is referred to in this Part as a “funding and investment strategy”.

- (2) The strategy must, in particular, specify—
- (a) the funding level the trustees or managers intend the scheme to have achieved as at the relevant date or relevant dates, and
 - (b) the investments the trustees or managers intend the scheme to hold on the relevant date or relevant dates.
- (3) In paragraph (2)—
- (a) “funding level” means the ratio of the scheme's assets to its liabilities;
 - (b) “relevant date” means a date determined in accordance with regulations.
- (4) Provision may be made by regulations—
- (a) requiring the trustees or managers of a scheme, in determining or revising a funding and investment strategy, to take into account prescribed matters and follow prescribed principles;
 - (b) as to the level of detail required in a funding and investment strategy;
 - (c) as to the period within which a funding and investment strategy must be determined;
 - (d) requiring a funding and investment strategy to be reviewed, and if necessary revised, at such intervals and on such occasions as may be prescribed.
- (5) The provision that may be made by virtue of paragraph (4)(a) includes provision requiring the trustees or managers, in specifying a funding level

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for the purposes of paragraph (2)(a), to adopt prescribed actuarial methods or assumptions.

- (6) Where any requirement of this Article is not complied with, Article 10 of the 1995 Order (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.

Statement of strategy

200B) The trustees or managers must, as soon as reasonably practicable after determining or revising the scheme's funding and investment strategy, prepare a written statement of—

- (a) the scheme's funding and investment strategy, and
- (b) the supplementary matters set out in paragraph (2).

(2) The supplementary matters are—

- (a) the extent to which, in the opinion of the trustees or managers, the funding and investment strategy is being successfully implemented and, where it is not, the steps they propose to take to remedy the position (including details as to timing);
- (b) the main risks faced by the scheme in implementing the funding and investment strategy and how the trustees or managers intend to mitigate or manage them;
- (c) reflections of the trustees or managers on any significant decisions taken by them in the past that are relevant to the funding and investment strategy (including any lessons learned that have affected other decisions or may do so in the future);
- (d) such other matters as may be prescribed.

(3) In this Part—

- (a) a statement under paragraph (1) is referred to as a “statement of strategy”;
- (b) the text included in a statement of strategy by virtue of paragraph (1) (a) is referred to as “Part 1” of the statement;
- (c) the text included in a statement of strategy by virtue of paragraph (1) (b) is referred to as “Part 2” of the statement.

(4) The trustees or managers must from time to time, and at such times and on such occasions as may be prescribed—

- (a) review Part 2 of the scheme's statement of strategy, and
- (b) if necessary in the light of that review, revise that Part and prepare a replacement statement of strategy incorporating it.

(5) The trustees or managers must consult the employer when preparing or revising Part 2 of a statement of strategy.

(6) A statement of strategy prepared for a trust scheme must be signed on behalf of the trustees by a person who—

- (a) is the chair of the trustees, and
- (b) meets such other conditions as may be prescribed.

(7) Where paragraph (6) cannot be complied with because the trustees of a trust scheme do not have a chair, they must appoint one.

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

- (8) Provision may be made by regulations—
- (a) requiring the trustees or managers of a scheme, in preparing or revising Part 2 of a statement of strategy, to take into account prescribed matters and follow prescribed principles;
 - (b) as to the level of detail required in Part 2 of a statement of strategy;
 - (c) as to the form of a statement of strategy;
 - (d) requiring the trustees or managers of a scheme to send a statement of strategy to the Regulator at such times and on such occasions as may be prescribed.
- (9) Where any requirement of this Article is not complied with, Article 10 of the 1995 Order (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.”

Commencement Information

I126 Sch. 11 para. 2 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 3 (1) Article 201 (the statutory funding objective) is amended as follows.
- (2) After paragraph (2) insert—
- “(2A) The scheme's technical provisions shall be calculated in a way that is consistent with the scheme's funding and investment strategy, as set out in the scheme's statement of strategy.”
- (3) In paragraph (3)(b), after “in a prescribed manner and” insert “, subject to paragraph (2A),”.

Commencement Information

I127 Sch. 11 para. 3 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 4 (1) Article 203 (actuarial valuations and reports) is amended as follows.
- (2) After paragraph (7) insert—
- “(7A) As soon as reasonably practicable after receiving an actuarial valuation, the trustees or managers must send a copy of it to the Regulator, together with such other information as may be prescribed.”
- (3) In paragraph (8), for “or (7)” substitute “, (7) or (7A)”.

Commencement Information

I128 Sch. 11 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 5 In Article 205 (recovery plan), after paragraph (3) insert—
- “(3A) Provision may be made by regulations as to the matters to be taken into account, or the principles to be followed, in determining for the purposes of paragraph (3) whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme.”

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

Commencement Information

I129 Sch. 11 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 6 In Article 208 (matters requiring agreement of employer), in paragraph (1), before sub-paragraph (a) insert—
- “(za) the scheme's funding and investment strategy, as set out in the scheme's statement of strategy;”.

Commencement Information

I130 Sch. 11 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 7 (1) Article 210 (powers of the Regulator) is amended as follows.
- (2) In paragraph (1), before sub-paragraph (za) insert—
- “(zza) that the trustees or managers have failed to comply with any of the requirements of Article 200A (funding and investment strategy) or regulations under that Article;”.
- (3) In paragraph (2), after sub-paragraph (a) insert—
- “(aa) it may give a direction requiring the trustees or managers to revise the scheme's funding and investment strategy in accordance with the direction;”.

Commencement Information

I131 Sch. 11 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(c)

Minor and consequential amendments

- 8 The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) is amended as follows.

Commencement Information

I132 Sch. 11 para. 8 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 9 In Article 55 (registrable information), in paragraph (2), after sub-paragraph (c) insert—
- “(ca) in the case of an occupational pension scheme established under a trust, the full name and address of any chair of the trustees;”.

Commencement Information

I133 Sch. 11 para. 9 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 10 In Article 75 (offences of providing false or misleading information), in paragraph (1)(a)—
- (a) omit the “or” at the end of head (iv);

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

(b) after that head insert—

“(iva) regulations under Article 200B(8)(d) (duty of trustees or managers to provide statement of strategy), or”.

Commencement Information

I134 Sch. 11 para. 10 in force at Royal Assent for specified purposes, see s. 131(3)(c)

11 In Article 288 (Assembly etc control of orders and regulations), in paragraph (3), after sub-paragraph (h) insert—

- “(ha) the first regulations under Article 200A(4)(a) and (b) (funding and investment strategy: matters to be taken into account etc and level of detail);
- (hb) the first regulations under Article 200B(2)(d) (Part 2 of statement of strategy: additional matters to be included);
- (hc) the first regulations under Article 200B(8)(a) and (b) (Part 2 of statement of strategy: matters to be taken into account etc and level of detail);”.

Commencement Information

I135 Sch. 11 para. 11 in force at Royal Assent for specified purposes, see s. 131(3)(c)

PART 2

OTHER PROVISION

Climate change risk

12 (1) The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) is amended as follows.

(2) After Article 41 insert—

“Climate change risk

41A(1) Regulations may impose requirements on the trustees or managers of an occupational pension scheme of a prescribed description with a view to securing that there is effective governance of the scheme with respect to the effects of climate change.

(2) The effects of climate change in relation to which provision may be made under paragraph (1) include, in particular—

- (a) risks arising from steps taken because of climate change (whether by governments or otherwise), and
- (b) opportunities relating to climate change.

(3) The requirements which may be imposed by the regulations include, in particular, requirements about—

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- (a) reviewing the exposure of the scheme to risks of a prescribed description;
 - (b) assessing the assets of the scheme in a prescribed manner;
 - (c) determining, reviewing and (if necessary) revising a strategy for managing the scheme's exposure to risks of a prescribed description;
 - (d) determining, reviewing and (if necessary) revising targets relating to the scheme's exposure to risks of a prescribed description;
 - (e) measuring performance against such targets;
 - (f) preparing documents containing information of a prescribed description.
- (4) Regulations under paragraph (3)(b) may, in particular, require—
- (a) that assets are assessed by reference to their exposure to risks of a prescribed description, and
 - (b) that an assessment includes determining the contribution of the assets of the scheme to climate change.
- (5) The regulations may require the trustees or managers of the scheme to take into account—
- (a) different ways in which the climate might change, and
 - (b) different steps that might be taken because of climate change.
- (6) Regulations under paragraph (5) may require the trustees or managers of the scheme to adopt prescribed assumptions as to future events, including assumptions about—
- (a) the steps that might be taken for the purpose of achieving the Paris Agreement goal or other climate change goal, or
 - (b) the achievement of the Paris Agreement goal or other climate change goal.
- (7) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.
- (8) In this Article “the Paris Agreement goal” means the goal of holding the increase in the average global temperature to well below 2°C above pre-industrial levels referred to in Article 2(1)(a) of the agreement done at Paris on 12 December 2015.

Climate change risk: publication of information

- 41B (1) Regulations may require the trustees or managers of an occupational pension scheme of a prescribed description to publish information of a prescribed description relating to the effects of climate change on the scheme (which may include information about matters to which regulations under Article 41A may relate).
- (2) Regulations under paragraph (1) may, among other things—
- (a) require the trustees or managers to publish a document of a prescribed description;
 - (b) require information or a document to be made available free of charge;

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

- (c) require information or a document to be provided in a form that is or by means that are prescribed or of a prescribed description.
- (3) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

Articles 41A and 41B: compliance

- 41C (1) Regulations may make provision with a view to ensuring compliance with a provision of regulations under Article 41A or 41B.
- (2) The regulations may in particular—
- (a) provide for the Authority to issue a notice (a “compliance notice”) to a person with a view to ensuring the person's compliance with a provision of regulations under Article 41A or 41B;
 - (b) provide for the Authority to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person's compliance with a provision of regulations under Article 41A or 41B;
 - (c) provide for the Authority to issue a notice (a “penalty notice”) imposing a penalty on a person where the Authority are of the opinion that the person—
 - (i) has failed to comply with a compliance notice or third party compliance notice, or
 - (ii) has contravened a provision of regulations under Article 41A or 41B;
 - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
 - (e) confer other functions on the Authority.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—
- (a) £5,000, in the case of an individual, and
 - (b) £50,000, in any other case.
- (5) In this Article “First-tier Tribunal” and “Upper Tribunal” mean those tribunals established under section 3 of the Tribunals, Courts and Enforcement Act 2007.”
- (3) In Article 113 (breach of regulations), in paragraph (3)(b), after “10” insert “ or under provision contained in regulations made by virtue of Article 41C ”.
- (4) In Article 167 (Assembly, etc. control of orders and regulations), after paragraph (3) insert—
- “(3A) Paragraph (2) also applies in relation to the first regulations made by virtue of Article 41A or 41C (whether made alone or with other regulations).”

Status: Point in time view as at 29/09/2021.

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

Commencement Information

I136 Sch. 11 para. 12 in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(e)

Transfer rights: exercise of right to cash equivalent

- 13 (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 91 (ways of taking right to cash equivalent), after subsection (6) insert—
- “(6ZA) The trustees or managers of the scheme may not use the cash equivalent in a way specified in subsection (2)(a), (b) or (d), (2A)(a), (b) or (d) or (3) unless prescribed conditions are satisfied.
- (6ZB) The conditions that may be prescribed by regulations under subsection (6ZA) include (but are not limited to) conditions about—
- (a) the member's employment or place of residence;
 - (b) providing the trustees or managers with information or evidence about the member's employment or place of residence;
 - (c) the member obtaining information or guidance about exercising the option conferred by subsection (1) from a prescribed person in a prescribed case;
 - (d) providing the trustees or managers with evidence that—
 - (i) the member has complied with a prescribed condition about obtaining such information or guidance from a prescribed person, or
 - (ii) the member is not subject to such a prescribed condition.
- (6ZC) Regulations may make provision requiring the trustees or managers of a pension scheme to notify a member who makes an application under subsection (1) of conditions prescribed under subsection (6ZA).”
- (3) In section 94 (loss of right to cash equivalent), in subsection (2), for “95(2A)” substitute “ 95(2ZA) or (2A) ”.
- (4) In section 95 (trustees' duties after exercise of option), after subsection (2) insert—
- “(2ZA) Subsection (2) does not apply if the trustees or managers have been unable to carry out what the member requires because a condition prescribed by regulations under section 91(6ZA) has not been satisfied.”
- (5) In section 95, after subsection (2ZA) (inserted by sub-paragraph (4)) insert—
- “(2ZB) Subsection (2) does not apply if—
- (a) the member was required by section 92(4) to give a transfer notice under section 97F(1) in addition to making an application, and
 - (b) the trustees or managers have been unable to carry out what the member required in the transfer notice under section 97F(1) because a condition prescribed by regulations under section 97F(5A) has not been satisfied.”
- (6) In section 97F (power to give transfer notice), after subsection (5) insert—

Status: Point in time view as at 29/09/2021.

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

“(5A) The trustees or managers of the scheme may not use the amount equal to the cash equivalent for an authorised purpose under subsection (2)(a) or (c) or (3) unless prescribed conditions are satisfied.

(5B) The conditions that may be prescribed by regulations under subsection (5A) include (but are not limited to) conditions about—

- (a) the member's employment or place of residence;
- (b) providing the trustees or managers with information or evidence about the member's employment or place of residence;
- (c) the member obtaining information or guidance about exercising the right under subsection (1) from a prescribed person in a prescribed case;
- (d) providing the trustees or managers with evidence that—
 - (i) the member has complied with a prescribed condition about obtaining such information or guidance from a prescribed person, or
 - (ii) the member is not subject to such a prescribed condition.

(5C) Regulations may make provision requiring the trustees or managers of a qualifying scheme to notify an eligible member who gives a transfer notice of conditions prescribed under subsection (5A).”

(7) In section 97J (time for compliance with transfer notice), after subsection (2A) insert—

“(2AA) Subsection (1) does not apply if the trustees or managers have been unable to carry out what the member requires because a condition prescribed by regulations under section 97F(5A) has not been satisfied.”

(8) In section 97J, after subsection (2AA) (inserted by sub-paragraph (7)) insert—

“(2AB) Subsection (1) does not apply if—

- (a) the member was required by section 97G(4) to make an application under section 91(1) in addition to giving a transfer notice, and
- (b) the trustees or managers have been unable to carry out what the member required in the application under section 91(1) because a condition prescribed by regulations under section 91(6ZA) has not been satisfied.”

Commencement Information

1137 Sch. 11 para. 13(1) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(b)

1138 Sch. 11 para. 13(2)(6) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(g)

The Pension Protection Fund: modification of provisions relating to pensionable service

- 14 (1) The amendments of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 149) made by regulation 2(2) and (3) of the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 (S.R. (N.I.) 2018 No. 165) (“the 2018 Regulations”) are to be deemed always to have had effect.

Status: Point in time view as at 29/09/2021.

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

- (2) The amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 91) made by regulation 3 of the 2018 Regulations is to be deemed always to have had effect.

Commencement Information

I139 Sch. 11 para. 14 in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(f)

Administration charges

- 15 (1) In Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) (meaning of “stakeholder pension scheme”), in paragraph (5) (fourth condition: charge cap)—
- (a) for “result in” substitute “constitute”;
 - (b) after “members” insert “or the making of transfer payments with a view to acquiring rights or entitlements to pension benefits under different pension schemes”.
- (2) In Schedule 18 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) (power to restrict charges or impose requirements in relation to schemes), in paragraph 1(5), in the definition of “administration charge”—
- (a) for “result in” substitute “constitute”;
 - (b) after “members” insert “or the making of transfer payments with a view to acquiring rights or entitlements to pension benefits under different pension schemes”.
- (3) In section 109 of the Pension Schemes (Northern Ireland) Act 1993 (disclosure of information about schemes to members etc)—
- (a) in subsection (6)(b), after “the” insert “other”;
 - (b) in subsection (7), after “or” insert “other”.

Commencement Information

I140 Sch. 11 para. 15(2) in force at 29.9.2021 for specified purposes by S.R. 2021/271, art. 2(2) (with art. 10)

VALID FROM 01/08/2022

Categories of pension schemes: repeal of provisions of Pension Schemes Act (Northern Ireland) 2016

- 16 In the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.)), omit—
- (a) sections 1 to 7 (Part 1: categories of pension scheme);
 - (b) sections 8 to 35 (Part 2: pension schemes providing collective benefits);
 - (c) sections 36, 37, 38(2), (3) and (5) to (7) and 39 to 45 (general changes to legislation about pension schemes);
 - (d) Schedule 1 (early leavers: revaluation of accrued benefits);
 - (e) in Schedule 2 (other amendments to do with Parts 1 and 2)—
 - (i) paragraphs 1 to 19;

Status: Point in time view as at 29/09/2021.

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

- (ii) paragraph 21;
- (iii) paragraphs 23 to 27;
- (iv) paragraphs 29 and 30;
- (v) paragraph 32;
- (vi) paragraphs 34 to 47.

Status:

Point in time view as at 29/09/2021.

Changes to legislation:

There are currently no known outstanding effects for the Pension Schemes Act 2021.