

**2021 No. 1302**

**PENSIONS**

**The Pensions Act 2004 (Code of Practice) (Contribution Notices: Circumstances in Relation to the Material Detriment Test, the Employer Insolvency Test and the Employer Resources Test) Appointed Day Order 2021**

*Made* - - - - *23rd November 2021*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by section 91(9) of the Pensions Act 2004(a), makes the following Order.

**Citation and extent**

**1.**—(1) This Order may be cited as the Pensions Act 2004 (Code of Practice) (Contribution Notices: Circumstances in Relation to the Material Detriment Test, the Employer Insolvency Test and the Employer Resources Test) Appointed Day Order 2021.

(2) This Order extends to England and Wales and Scotland.

**Appointed day**

**2.** The day appointed for the coming into effect of the Pensions Regulator’s revised Code of Practice 12: Contribution Notices: Circumstances in relation to the material detriment test, the employer insolvency test and the employer resources test is 25th November 2021.

Signed by the authority of the Secretary of State for Work and Pensions

23rd November 2021

*Guy Opperman*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order appoints 25th November 2021 as the day for the coming into effect of the Pensions Regulator’s revised Code of Practice 12: Contribution Notices: Circumstances in relation to the material detriment test, the employer insolvency test and the employer resources test.

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(a) 2004 c. 35.

Section 38 of the Pensions Act 2004 (c. 35) makes provision enabling the Pensions Regulator to issue a contribution notice. One set of circumstances in which the Pensions Regulator may issue a contribution notice is if, in its opinion and subject to the other requirements of section 38 being met, a person was party to an act or a deliberate failure to act in relation to which one of certain tests is, in the Pensions Regulator's opinion, met. These tests are the material detriment test, the employer insolvency test and the employer resources test. The employer insolvency test and the employer resources test were inserted into section 38(5)(a) of the Pensions Act 2004 by section 103 of the Pension Schemes Act 2021 (c. 1). Regulation 3(1) of the Pension Schemes Act 2021 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2021 (S.I. 2021/950) makes transitional provision regarding acts, failures to act, continuing failures to act and series of acts and failures to act in relation to which the employer insolvency test and the employer resources test cannot be applied.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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