
STATUTORY RULES OF NORTHERN IRELAND

2021 No. 271 (C. 11)

PENSIONS

**The Pension Schemes Act 2021
(Commencement No. 2 and Transitional and Saving Provisions)
Order (Northern Ireland) 2021**

Made - - - - 28th September 2021

The Department for Communities makes the following Order in exercise of the powers conferred by section 131(2), (4) and (6) of the Pension Schemes Act 2021⁽¹⁾.

PART 1

Preliminary

Citation and interpretation

1.—(1) This Order may be cited as the Pension Schemes Act 2021 (Commencement No. 2 and Transitional and Saving Provisions) Order (Northern Ireland) 2021.

(2) In this Order—

“the Act” means the Pension Schemes Act 2021;

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005⁽²⁾;

“the Regulator” means the Pensions Regulator.

PART 2

Appointed day

Commencement of provisions

2.—(1) The following provisions of the Act come into operation on the day appointed by this Article.

(1) 2021 c. 1

(2) S.I. 2005/255 (N.I. 1)

(2) The day appointed for the coming into operation of paragraph 15(2) of Schedule 11 to the Act (administration charges), and section 129(b) in so far as it relates to it, for the purpose only of authorising the making of regulations is 29th September 2021, and for all other purposes is immediately before 1st October 2021.

(3) The day appointed for the coming into operation of the following provisions of the Act is 1st October 2021—

- (a) paragraph 3 of Schedule 8 (reasonableness of issuing contribution notice) except—
 - (i) paragraph 3(1) in so far as it relates to paragraph 3(2), and
 - (ii) paragraph 3(2);
- (b) paragraph 4 of Schedule 8 (determination of sum specified in a contribution notice);
- (c) paragraph 5 of Schedule 8 (sanctions for failure to comply with a contribution notice);
- (d) paragraph 6 of Schedule 8 (sanctions for avoidance of employer debt etc);
- (e) paragraph 7 of Schedule 8 (duty to notify the Regulator of certain events);
- (f) paragraph 10 of Schedule 8 (inspection of premises) except—
 - (i) paragraph 10(2)(a);
 - (ii) paragraph 10(2)(b)(ii), and
 - (iii) paragraph 10(1) in so far as it relates to the amendments excepted by heads (i) and (ii);
- (g) paragraph 12 of Schedule 8 (provision of false or misleading information to Regulator) except for the following provisions of inserted Article 75A of the 2005 Order (financial penalty for providing false or misleading information to Regulator)—
 - (i) paragraph (2)(a)(iv), and
 - (ii) paragraph (2)(c)(v);
- (h) paragraph 13 of Schedule 8 (provision of false or misleading information to trustees or managers);
- (i) paragraph 14 of Schedule 8 (financial penalties);
- (j) paragraph 15(3) of Schedule 11;
- (k) section 117(a) (the Pensions Regulator: Northern Ireland) and paragraph 1 of Schedule 8 (amendments of the Pensions (Northern Ireland) Order 2005) in so far as they relate to the provisions specified in sub-paragraphs (a) to (i), and
- (l) section 129(b) (further provision relating to pension schemes: Northern Ireland) in so far as it relates to the provision specified in sub-paragraph (j).

(4) The day appointed for the coming into operation of the following provisions in Schedule 8 to the Act (minor and consequential amendments) is 1st October 2021—

- (a) paragraph 15;
- (b) paragraph 16 except in so far as it relates to the following provisions of Schedule 8—
 - (i) the reference in the amendment made by paragraph 21(3) to Part 2 of the Pension Schemes Act 2021;
 - (ii) paragraph 22(a), and
 - (iii) paragraph 26(2);
- (c) paragraphs 17 to 20;
- (d) paragraph 21 except for the reference in the amendment made by paragraph 21(3) to Part 2 of the Pension Schemes Act 2021;

(e) paragraph 22 except for paragraph 22(a);
(f) paragraphs 23 to 25, and
(g) paragraph 26 except for paragraph 26(2),
and section 117(b) of the Act in so far as it relates to the provisions specified in sub-paragraphs (a) to (g).

(5) The day appointed for the coming into operation of the following provisions of the Act for all remaining purposes is 1st October 2021—

- (a) paragraph 2 of Schedule 8 (grounds for issuing an Article 34 contribution notice);
- (b) paragraph 9 of Schedule 8 (interviews);
- (c) paragraph 11 of Schedule 8 (fixed penalty notices and escalating penalty notices), and
- (d) section 117(a) and paragraph 1 of Schedule 8 in so far as they relate to the provisions specified in sub-paragraphs (a) to (c).

PART 3

Transitional and saving provisions

Transitional provision in respect of the Regulator's powers to impose contribution notices and sanctions for avoidance of employer debt and financial penalties

3.—(1) Paragraphs (2) to (4) apply where—

- (a) an act or failure to act or course of conduct occurred on or after 1st October 2021;
- (b) in the case of acts or failures to act or courses of conduct which form part of a series, any series where the first act or failure to act or instance of course of conduct occurred before 1st October 2021, or
- (c) in the case of a continuing failure, the failure first occurred before 1st October 2021.

(2) Articles 34(3) (contribution notices where avoidance of employer debt), 35 (the sum specified on an Article 34 contribution notice), 36 (content and effect of an Article 34 contribution notice), and 37 (Article 34 contribution notice: relationship with employer debt) of the 2005 Order continue to apply as if the amendments made by paragraphs 2 to 5 of Schedule 8 to the Act (grounds for issuing an Article 34 contribution notice) have not been brought into operation.

(3) The amendments made by paragraph 5(3) and (4) of Schedule 8 to the Act (sanctions for failure to comply with a contribution notice) do not apply.

(4) The amendments made by paragraph 6 of Schedule 8 to the Act (sanctions for avoidance of employer debt etc) do not apply.

(5) The amendments made by paragraph 14 of Schedule 8 to the Act (financial penalties) do not apply, but where a penalty notice is issued under Article 83A(4) of the 2005 Order (financial penalties) after 1st October 2021, Article 83B of the 2005 Order (financial penalties: time for recovery) applies to contribution notices issued under Article 34 of the 2005 Order before 1st October 2021.

(3) Articles 34 to 38 are amended by paragraphs 2 to 5 of Schedule 8 to the Pension Schemes Act 2021

(4) Articles 83A and 83B are inserted by paragraph 14 of Schedule 8 to the Pension Schemes Act 2021

Transitional provision in respect of the duty to notify the Regulator of certain events

4. Where a duty to notify the Regulator of any notifiable event under Article 64(5) of the 2005 Order (duty to notify the Regulator of certain events) arises before 1st October 2021, Articles 64 and 75(6) of the 2005 Order (offences of providing false or misleading information) continue to apply as if the amendments made by paragraph 7 of Schedule 8 of the Act (duty to notify the Regulator of certain events) have not been brought into operation.

Transitional provision in respect of the Regulator's power to impose fixed and escalating penalty notices

5. The amendments made by paragraph 11 of Schedule 8 to the Act (fixed penalty notices and escalating penalty notices) do not apply in relation to—

- (a) a duty to comply with—
 - (i) a notice issued under Article 67(7) of the 2005 Order (provision of information), or
 - (ii) a requirement under Article 70(8) of the 2005 Order (inspection of premises: powers of inspectors),
 arising before 1st October 2021, or
- (b) any act occurring before 1st October 2021 which prevented or hindered an inspector exercising any power under Article 68 (inspection of premises), Article 69(9) (inspection of premises in respect of employers' obligations) or Article 70 of the 2005 Order.

Transitional provision in respect of provision of false or misleading information to the Regulator

6. The amendments made by paragraph 12 of Schedule 8 to the Act (provision of false or misleading information to Regulator) do not apply in so far as they relate to information supplied to the Regulator under the circumstances mentioned at Article 72A(2)(a), (b) or (c) of the 2005 Order (financial penalty for providing false or misleading information to the Regulator) before 1st October 2021.

Transitional provision in respect of provision of false or misleading information to trustees or managers

7. The amendments made by paragraph 13 of Schedule 8 to the Act (provision of false or misleading information to trustees or managers) do not apply in so far as they relate to information provided to a trustee or manager of a scheme under the circumstances mentioned at Article 75B(3) (a) or (b)(10) of the 2005 Order (financial penalty for providing false or misleading information to trustees or managers) before 1st October 2021.

Saving provision in respect of the duty to notify the Regulator of certain events before 1st October 2021

8. Article 64(7) of the 2005 Order continues to have effect as if the amendments made by paragraph 7(1) of Schedule 8 to the Act (duty to notify the Regulator of certain events) have not

(5) Article 64 is amended by paragraph 7(1) of Schedule 8 to the Pension Schemes Act 2021

(6) Article 75 is amended by paragraphs 7(2) and 21(3) of Schedule 8 to the Pension Schemes Act 2021

(7) Article 67(1A) and (1B) is omitted by paragraph 9(2) of Schedule 8 to the Pension Schemes Act 2021. There are other amendments made by other legislation but none is relevant

(8) Article 70 is amended by paragraph 18 of Schedule 8 to the Pension Schemes Act 2021. There are other amendments made by other legislation but none is relevant

(9) Article 69 is amended by section 60 of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

(10) Article 72A is amended by paragraph 13 of Schedule 8 to the Pension Schemes Act 2021