



Pensions Act 2008

2008 CHAPTER 30

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 2

COMPLIANCE

Reviews and references

43 Review of notices

- (1) The Regulator may review a notice to which this section applies—
 - (a) on the written application of the person to whom the notice was issued, or
 - (b) if the Regulator otherwise considers it appropriate.
- (2) This section applies to—
 - (a) a compliance notice issued under section 35;
 - (b) a third party compliance notice issued under section 36;
 - (c) an unpaid contributions notice issued under section 37;
 - (d) a fixed penalty notice issued under section 40;
 - (e) an escalating penalty notice issued under section 41.
- (3) Regulations may prescribe the period within which—
 - (a) an application to review a notice may be made under subsection (1)(a);
 - (b) a notice may be reviewed under subsection (1)(b).
- (4) On a review of a notice, the effect of the notice is suspended for the period beginning when the Regulator determines to carry out the review and ending when the review is completed.

Status: This is the original version (as it was originally enacted).

- (5) In carrying out a review, the Regulator must consider any representations made by the person to whom the notice was issued.
- (6) The Regulator's powers on a review include power to—
 - (a) confirm, vary or revoke the notice;
 - (b) substitute a different notice.

44 References to the Pensions Regulator Tribunal

- (1) A person to whom a notice is issued under section 40 or 41 may, if one of the conditions in subsection (2) is satisfied, make a reference to the Pensions Regulator Tribunal in respect of—
 - (a) the issue of the notice;
 - (b) the amount of the penalty payable under the notice.
- (2) The conditions are—
 - (a) that the Regulator has completed a review of the notice under section 43;
 - (b) that the person to whom the notice was issued has made an application for the review of the notice under section 43(1)(a) and the Regulator has determined not to carry out such a review.
- (3) On a reference to the Pensions Regulator Tribunal in respect of a notice, the effect of the notice is suspended for the period beginning when the Tribunal receives notice of the reference and ending—
 - (a) when the reference is withdrawn or completed, or
 - (b) if the reference is made out of time, on the Tribunal determining not to allow the reference to proceed.
- (4) For the purposes of subsection (3), a reference is completed when—
 - (a) the reference has been determined,
 - (b) the Tribunal has remitted the matter to the Regulator, and
 - (c) any directions of the Tribunal for giving effect to its determination have been complied with.
- (5) In section 102(2) of the Pensions Act 2004 (c. 35) (functions of the Pensions Regulator Tribunal)—
 - (a) the words from “by this Act” to the end become paragraph (a);
 - (b) at the end insert—
 - “(b) by section 44 of the Pensions Act 2008 or any provision in force in Northern Ireland corresponding to that section.”
- (6) In section 103 of that Act (references to the Tribunal), after subsection (1) insert—
 - “(1A) A reference to the Tribunal under section 44 of the Pensions Act 2008 must be made during such period as may be specified in rules made under section 102.”
- (7) In subsection (2) of that section, at the end insert “or (1A)”.
- (8) In Schedule 4 to that Act (constitution, procedure etc. of the Tribunal), in paragraph 7(5)—
 - (a) the words from “under this Act” to the end become paragraph (a);
 - (b) at the end insert—

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“(b) under section 44 of the Pensions Act 2008 or any provision in force in Northern Ireland corresponding to that section.”

(9) In that Schedule, in paragraph 13—

- (a) after “a reference” (in both places where it occurs) insert “under this Act, or any provisions in force in Northern Ireland corresponding to this Act,”;
- (b) at the end insert—

“(3) The Lord Chancellor may by regulations make provision about the award of costs and expenses by the Tribunal on a reference made under section 44 of the Pensions Act 2008 or any provision in force in Northern Ireland corresponding to that section.”