Pensions Act 2008

2008 CHAPTER 30

PART 5

MISCELLANEOUS

Miscellaneous provision relating to pensions

126 Amendments of provisions of Pensions Act 2004 relating to contribution notices or financial support directions

Schedule 9 (which amends the Pensions Act 2004 (c. 35) in relation to contribution notices and financial support directions) has effect.

127 Review of the initial operation of sections 38A and 38B of Pensions Act 2004

(1) The Secretary of State must carry out a review of the operation of sections 38A and 38B of the Pensions Act 2004 (which are inserted into that Act by paragraph 2 of Schedule 9 to this Act) during the period of 4 years beginning with the day on which that paragraph fully comes into force ("the commencement date").

(2) The Secretary of State must set out the conclusions of the review in a report and lay the report before Parliament.

(3) The report must be laid before the end of the period of 5 years beginning with the commencement date.

128 Pension sharing: power of Court of Session to extend time limits

(1) The Welfare Reform and Pensions Act 1999 (c. 30) is amended as follows.

(2) In section 28(10) (pension arrangements: time limit for activation of pension sharing in Scotland), for "The sheriff" substitute "The Court of Session or the sheriff".

(3) In section 48(9) (state scheme rights: time limit for activation of benefit sharing in Scotland), for "The sheriff" substitute "The Court of Session or the sheriff".

129 Interest on late payment of levies

Schedule 10 (which makes provision about payment of interest on late payment of levies) has effect.

130 Payments to employers

In section 37 of the Pensions Act 1995 (payment of surplus to employer) after subsection (1) insert—

"(1A) But this section does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments)."

131 Appointment of trustees

(1) In section 7 of the Pensions Act 1995 (c. 26) (appointment of trustees), in subsection (3)—

(a) for "necessary", in the first place where it occurs, substitute "reasonable";

(b) omit "or" at the end of paragraph (b);

(c) at the end insert ", or

(d) otherwise to protect the interests of the generality of the members of the scheme."

(2) In paragraph 9(b) of Schedule 2 to the Pensions Act 2004 (c. 35) (reserved regulatory functions), for "or (c)" substitute ", (c) or (d)".

132 Intervention by Regulator where scheme's technical provisions improperly determined

In section 231 of the Pensions Act 2004 (powers of the Regulator), before paragraph (a) of subsection (1) insert—

"(za) that the trustees or managers, when determining the methods and assumptions to be used in calculating the scheme's technical provisions, have failed to comply with a requirement imposed under section 222(4)(c);".

133 Delegation of powers by the Regulator

(1) The Pensions Act 2004 is amended as follows.

(2) In paragraph 21 of Schedule 1 (regulations relating to delegation of the Pensions Regulator's functions), the existing provision becomes sub-paragraph (1).

(3) For paragraph (e) of that sub-paragraph substitute—

"(e) permitting the Regulator to authorise such persons, in such circumstances and under such arrangements, as the Regulator may determine, to exercise on behalf of the Regulator—

(i) the power to determine whether to exercise any of the functions listed in sub-paragraph (2);

(ii) the power to exercise any of the functions listed in sub-paragraph (2) or such other functions as may be prescribed."

(4) After that sub-paragraph insert—

"(2) The functions mentioned in sub-paragraph (1)(e) are—

(a) the power to issue an improvement notice under section 13;

(b) the power to issue a third party notice under section 14;

(c) the power to recover unpaid contributions under section 17;

(d) the power to require information under section 72;

(e) the power to vary or revoke a determination, order, notice or direction under section 101;

(f) the power to require payment of a penalty under section 10 of the Pensions Act 1995;

(g) the power to issue a compliance notice under section 35 of the Pensions Act 2008;

(h) the power to issue a third party compliance notice under section 36 of that Act;

(i) the power to issue an unpaid contributions notice under section 37 of that Act;

(j) the power to issue a fixed penalty notice under section 40 of that Act;

(k) the power to issue an escalating penalty notice under section 41 of that Act;

(l) the power to recover penalties under section 42 of that Act;

(m) the power to review a notice under section 43 of that Act;

(n) the power to issue a compliance notice in respect of prohibited recruitment conduct under section 51 of that Act;

(o) the power to issue a penalty notice in respect of prohibited recruitment conduct under section 52 of that Act."

(5) Omit paragraph 28 of Schedule 1 (payment of expenses).

(6) Subsections (2) to (4)—

(a) do not affect any regulations made under paragraph 21(e) of Schedule 1 to the Pensions Act 2004 (c. 35) before the coming into force of this section, and

(b) do not affect the powers conferred by that paragraph, so far as exercisable for the purpose of making, by way of consolidation, provision having the same effect as any provision of those regulations.

134 Exclusion of transfers out in certain cases

(1) The Pension Schemes Act 1993 (c. 48) is amended as follows.

(2) In section 93(1B) (regulations as to the application of provisions relating to transfers for early leavers), after paragraph (a) insert—

"(aa) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;".

(3) In section 101F (transfer notice in respect of pension credit benefit), after subsection (6) insert—

"(6A) Regulations may provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description."