
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

[^{F1}Financial penalties]

F1 Arts. 83A-83C and cross-heading inserted (1.10.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2) (b), Sch. 8 para. 14; S.R. 2021/271, art. 2(3)(i) (with art. 3(5))

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.

(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.

Changes to legislation: *The Pensions (Northern Ireland) Order 2005, Cross Heading: Financial penalties is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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
- (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.]

Changes to legislation:

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 6 para. 21(2)(c)-(cc) substituted for (b)(c) by [2008 c. 13 \(N.I.\) Sch. 6 para. 11](#)
- art. 2(4)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 21\(3\)\(b\)](#)
- art. 19(1A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(3\)](#)
- art. 19(10A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(5\)](#)
- art. 34(1)-(1B) substituted for art. 34(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 25](#)
- art. 34(7)(da) inserted by [2021 c. 1 Sch. 8 para. 3\(2\)](#)
- art. 39(1)-(1B) substituted for art. 39(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(2\)](#)
- art. 48(1)-(1B) substituted for art. 48(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 27](#)
- art. 75(1)(a)(iib) inserted by [2021 c. 1 Sch. 8 para. 8\(2\)](#)
- art. 110(1)-(1B) substituted for art. 110(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 29](#)
- art. 191(5) added by [2008 c. 13 \(N.I.\) Sch. 9 para. 6](#)
- art. 267(4)(f) and word inserted by [2021 c. 1 Sch. 6 para. 20\(b\)](#)