
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Codes of practice

Codes of practice

- 85.**—(1) The Regulator may issue codes of practice—
- (a) containing practical guidance in relation to the exercise of functions under the pensions legislation, and
 - (b) regarding the standards of conduct and practice expected from those who exercise such functions.
- (2) The Regulator must issue one or more such codes of practice relating to the following matters—
- (a) what constitutes a “reasonable” period for the purposes of any provision of the pensions legislation (other than any statutory provision contained in or made by virtue of Part III) which requires any action to be taken within such a period;
 - (b) the discharge of the duty imposed by Article 64 (duty to notify Regulator of certain events);
 - (c) the discharge of the duty imposed by Article 65 (duty to report breaches of the law);
 - (d) the discharge of duties imposed on trustees or managers of occupational pension schemes by, or by virtue of, Part IV (scheme funding);
 - (e) the discharge of the duties imposed by Articles 218 and 219 (member-nominated trustees and directors);
 - (f) the obligations imposed by Articles 224 and 225 (requirements for knowledge and understanding: individual and corporate trustees);
 - (g) the discharge of the duty imposed by Article 49(9)(b) of the 1995 Order (duty of trustees or managers of occupational pension schemes to report material failures by employers to pay contributions deducted from employee’s earnings timeously);
 - (h) the discharge of the duties imposed by Articles 67 to 67I of that Order (the subsisting rights provisions);
 - (i) the discharge of the duty imposed by Article 86(1) of that Order (duty of trustees or managers of money purchase schemes to report failures to pay employer contributions etc. timeously);
 - (j) the discharge of the duty imposed by section 107A(7A) of the Pension Schemes Act (duty of trustees or managers of personal pension schemes to report material failures to pay employer contributions timeously);

(k) such other matters as are prescribed for the purposes of this Article.

(3) The Regulator may from time to time revise the whole or any part of a code of practice issued under this Article and issue that revised code.

(4) Subject to Article 9(3)(a) and (8) (power for improvement notice to direct that person complies with code of practice and civil penalties for failure to comply), a failure on the part of any person to observe any provision of a code of practice does not of itself render that person liable to any legal proceedings.

(5) A code of practice issued under this Article is admissible in evidence in any legal proceedings and, if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings, it must be taken into account in determining that question.

(6) In this Article—

“legal proceedings” includes proceedings of the Pensions Ombudsman, proceedings of the PPF Ombudsman and proceedings of the Board under Article 189 or 190; and

“the pensions legislation” means any statutory provision contained in or made by virtue of—

- (a) the Pension Schemes Act,
- (b) Part II of the 1995 Order, other than Articles 62 to 66A of that Order (equal treatment),
- (c) Part II or Article 30 of the 1999 Order, or
- (d) this Order.

(7) Articles 86 and 87 make provision about the procedure to be followed when a code of practice is issued or revoked.

Procedure for issue and publication of codes of practice

86.—(1) Where the Regulator proposes to issue a code of practice it must prepare and publish a draft of the code.

(2) Where the Regulator publishes a draft under paragraph (1), it must consult—

- (a) such persons as it considers appropriate, and
- (b) any other persons the Department requires it to consult.

(3) Having considered any representations made on the draft, the Regulator must make such modifications to it as it considers appropriate.

(4) Paragraphs (2) and (3) do not apply—

- (a) to a code made for the purpose only of consolidating other codes issued under Article 85, or
- (b) to a code if the Department considers consultation inexpedient by reason of urgency.

(5) If the Regulator determines to proceed with a draft, it must send it to the Department which—

- (a) if it approves of the draft, must lay it before the Assembly, and
- (b) if it does not approve of the draft, must publish details of its reasons for withholding approval.

(6) If, within the statutory period beginning with the day on which the draft code of practice is laid before the Assembly, the Assembly so resolves, no further proceedings may be taken on the draft, but without prejudice to the laying before the Assembly of a new draft.

(7) If no such resolution is passed as is referred to in paragraph (6), the Regulator must issue the code of practice in the form of the draft and the code shall come into operation on such day as the Department may by order appoint.

(8) Without prejudice to Article 287, an order under paragraph (7) may contain such transitional provisions or savings as appear to the Department to be necessary or expedient in connection with the code of practice brought into operation.

(9) The Regulator must arrange for any code issued by it under Article 85 to be published in the way appearing to it to be appropriate.

(10) The Regulator may charge a reasonable fee for providing a person with a copy of a code published under this Article.

(11) This Article applies to a revised code as it applies to the first issue of a code.

Revocation of codes of practice

87.—(1) A code of practice may be revoked by the Department by order.

(2) An order under this Article may be made only with the consent of the Regulator.

(3) Without prejudice to Article 287, an order under this Article may contain such savings as appear to the Department to be necessary or expedient in connection with the revocation of the code.