



Pensions Act 2004

2004 CHAPTER 35

PART 9

MISCELLANEOUS AND SUPPLEMENTARY

Service of notifications etc and electronic working

303 Service of notifications and other documents

- (1) This section applies where provision made (in whatever terms) by or under this Act authorises or requires—
 - (a) a notification to be given to a person, or
 - (b) a document of any other description (including a copy of a document) to be sent to a person.
- (2) The notification or document may be given to the person in question—
 - (a) by delivering it to him,
 - (b) by leaving it at his proper address, or
 - (c) by sending it by post to him at that address.
- (3) The notification or document may be given or sent to a body corporate by being given or sent to the secretary or clerk of that body.
- (4) The notification or document may be given or sent to a firm by being given or sent to—
 - (a) a partner in the firm, or
 - (b) a person having the control or management of the partnership business.
- (5) The notification or document may be given or sent to an unincorporated body or association by being given or sent to a member of the governing body of the body or association.
- (6) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is—

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- (a) in the case of a body corporate, the address of the registered or principal office of the body,
 - (b) in the case of a firm, or an unincorporated body or association, the address of the principal office of the firm, body or association,
 - (c) in the case of any person to whom the notification or other document is given or sent in reliance on any of subsections (3) to (5), the proper address of the body corporate, firm or (as the case may be) other body or association in question, and
 - (d) in any other case, the last known address of the person in question.
- (7) In the case of—
- (a) a company registered outside the United Kingdom,
 - (b) a firm carrying on business outside the United Kingdom, or
 - (c) an unincorporated body or association with offices outside the United Kingdom,
- the references in subsection (6) to its principal office include references to its principal office within the United Kingdom (if any).
- (8) In this section “notification” includes notice; and references in this section to sending a document to a person include references to making an application to him.
- (9) This section has effect subject to section 304.

304 Notification and documents in electronic form

- (1) This section applies where—
- (a) section 303 authorises the giving or sending of a notification or other document by its delivery to a particular person (“the recipient”), and
 - (b) the notification or other document is transmitted to the recipient—
 - (i) by means of an electronic communications network, or
 - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.
- (2) The transmission has effect for the purposes of this Act as a delivery of the notification or other document to the recipient, but only if the requirements imposed by or under this section are complied with.
- (3) Where the recipient is a relevant authority—
- (a) it must have indicated its willingness to receive the notification or other document in a manner mentioned in subsection (1)(b),
 - (b) the transmission must be made in such manner, and satisfy such other conditions, as it may require, and
 - (c) the notification or other document must take such form as it may require.
- (4) Where the person making the transmission is a relevant authority, it may (subject to subsection (5)) determine—
- (a) the manner in which the transmission is made, and
 - (b) the form in which the notification or other document is transmitted.
- (5) Where the recipient is a person other than a relevant authority—
- (a) the recipient, or

- (b) the person on whose behalf the recipient receives the notification or other document,
must have indicated to the person making the transmission the recipient's willingness to receive notifications or documents transmitted in the form and manner used.
- (6) An indication given to any person for the purposes of subsection (5)—
- (a) must be given to that person in such manner as he may require,
 - (b) may be a general indication or one that is limited to notifications or documents of a particular description,
 - (c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission, and
 - (d) may be modified or withdrawn at any time by a notice given to that person in such manner as he may require.
- (7) An indication, requirement or determination given, imposed or made by a relevant authority for the purposes of this section is to be given, imposed or made by being published in such manner as it considers appropriate for bringing it to the attention of the persons who, in its opinion, are likely to be affected by it.
- (8) Where both the recipient and the person making the transmission are relevant authorities—
- (a) subsections (3) and (4) do not apply, and
 - (b) the recipient must have indicated to the person making the transmission the recipient's willingness to receive notifications or documents transmitted in the form and manner used.
- (9) Subsection (8) of section 303 applies for the purposes of this section as it applies for the purposes of that section.
- (10) In this section, “relevant authority” means the Regulator, the Board or the Secretary of State and in the application of this section to Northern Ireland by virtue of section 323(2)(g)(ii) also includes the Department for Social Development in Northern Ireland.
- (11) In this section and section 305, “electronic communications network” has the same meaning as in the Communications Act 2003 (c. 21).

305 Timing and location of things done electronically

- (1) The Secretary of State may by order make provision specifying, for the purposes of any enactment contained in, or made under, this Act, the manner of determining—
- (a) the times at which things done under that enactment by means of electronic communications networks are done, and
 - (b) the places at which such things are so done, and at which things transmitted by means of such networks are received.
- (2) The provision made under subsection (1) may include provision as to the country or territory in which an electronic address is to be treated as located.
- (3) An order made by the Secretary of State may also make provision about the manner of proving in any legal proceedings—

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- (a) that something done by means of an electronic communications network satisfies the requirements of an enactment contained in, or made under, this Act for the doing of that thing, and
 - (b) the matters mentioned in subsection (1)(a) and (b).
- (4) An order under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.