



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 1

#### THE PENSIONS REGULATOR

##### *Codes of practice*

#### **90 Codes of practice**

- (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 enactment contained in or made by virtue of Part 2) which requires any action to be taken within such a period;
  - (b) the discharge of the duty imposed by section 69 (duty to notify Regulator of certain events);
  - (c) the discharge of the duty imposed by section 70 (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 3 (scheme funding);
  - (e) the discharge of the duties imposed by sections 241 and 242 (member-nominated trustees and directors);
  - (f) the obligations imposed by sections 247 and 248 (requirements for knowledge and understanding: individual and corporate trustees);
  - (g) the discharge of the duty imposed by section 49(9)(b) of the Pensions Act 1995 (c. 26) (duty of trustees or managers of occupational pension schemes

---

*Status: This is the original version (as it was originally enacted).*

---

- to report material failures by employers to pay contributions deducted from employee's earnings timeously);
- (h) the discharge of the duties imposed by sections 67 to 67I of that Act (the subsisting rights provisions);
  - (i) the discharge of the duty imposed by section 88(1) of that Act (duties of trustees and managers of money purchase schemes to report failures to pay employer contributions etc timeously);
  - (j) the discharge of the duty imposed by section 111A(7A) of the Pension Schemes Act 1993 (c. 48) (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 section.
- (3) The Regulator may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code.
- (4) 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.
- This is subject to section 13(3)(a) and (8) (power for improvement notice to direct that person complies with code of practice and civil penalties for failure to comply).
- (5) A code of practice issued under this section 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 section—
- “legal proceedings” includes proceedings of the Pensions Ombudsman, proceedings of the Ombudsman for the Board of the Pension Protection Fund and proceedings of the Board of the Pension Protection Fund under section 207 or 208; and
  - “the pensions legislation” means any enactment contained in or made by virtue of—
    - (a) the Pension Schemes Act 1993 (c. 48),
    - (b) Part 1 of the Pensions Act 1995 (c. 26), other than sections 62 to 66A of that Act (equal treatment),
    - (c) Part 1 or section 33 of the Welfare Reform and Pensions Act 1999 (c. 30), or
    - (d) this Act.
- (7) Sections 91 and 92 make provision about the procedure to be followed when a code of practice is issued or revoked.