



# Pensions Act 2008

## 2008 CHAPTER 30

### PART 1

#### PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

### CHAPTER 2

#### COMPLIANCE

##### *Reviews and references*

#### **43 Review of notices**

- (1) The Regulator may review a notice to which this section applies—
  - (a) on the written application of the person to whom the notice was issued, or
  - (b) if the Regulator otherwise considers it appropriate.
- (2) This section applies to—
  - (a) a compliance notice issued under section 35;
  - (b) a third party compliance notice issued under section 36;
  - (c) an unpaid contributions notice issued under section 37;
  - (d) a fixed penalty notice issued under section 40;
  - (e) an escalating penalty notice issued under section 41.
- (3) Regulations may prescribe the period within which—
  - (a) an application to review a notice may be made under subsection (1)(a);
  - (b) a notice may be reviewed under subsection (1)(b).
- (4) On a review of a notice, the effect of the notice is suspended for the period beginning when the Regulator determines to carry out the review and ending when the review is completed.

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- (5) In carrying out a review, the Regulator must consider any representations made by the person to whom the notice was issued.
- (6) The Regulator's powers on a review include power to—
  - (a) confirm, vary or revoke the notice;
  - (b) substitute a different notice.

**Modifications etc. (not altering text)**

- C1** S. 43 applied (27.4.2017 for specified purposes, 5.9.2018 for specified purposes, 1.10.2018 in so far as not already in force) by Pension Schemes Act 2017 (c. 17), ss. 17(5)(b), 44(1)(a); S.I. 2018/965, reg. 2(a)(b)
- C2** S. 43 applied (27.4.2017 for specified purposes, 5.9.2018 for specified purposes, 1.10.2018 in so far as not already in force) by Pension Schemes Act 2017 (c. 17), ss. 18(7)(b), 44(1)(a); S.I. 2018/965, reg. 2(a)(b)
- C3** S. 43 applied (31.5.2021 for specified purposes, 1.10.2021 in so far as not already in force) by 2004 c. 35, s. 77B(7)(b) (with s. 77B(8)) (as inserted by Pension Schemes Act 2021 (c. 1), ss. 112, 131(1); S.I. 2021/620, reg. 2(1)(d); S.I. 2021/950, reg. 2(5)(c) (with reg. 5))
- C4** S. 43 applied (31.5.2021 for specified purposes, 1.10.2021 in so far as not already in force) by 2004 c. 35, s. 77A(5)(b) (with s. 77A(6)) (as inserted by Pension Schemes Act 2021 (c. 1), ss. 112, 131(1); S.I. 2021/620, reg. 2(1)(d); S.I. 2021/950, reg. 2(5)(c) (with reg. 5))

**Commencement Information**

- II** S. 43 wholly in force at 30.6.2012; s. 43 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 43 in force so far as not already in force at 30.6.2012 by S.I. 2012/1682, art. 2(1)(2)(a), Sch. 1

**44 References to <sup>[F1]</sup>First-tier Tribunal or Upper Tribunal**

- (1) A person to whom a notice is issued under section 40 or 41 may, if one of the conditions in subsection (2) is satisfied, make a reference to <sup>[F2]</sup>the Tribunal in respect of—
  - (a) the issue of the notice;
  - (b) the amount of the penalty payable under the notice.
- (2) The conditions are—
  - (a) that the Regulator has completed a review of the notice under section 43;
  - (b) that the person to whom the notice was issued has made an application for the review of the notice under section 43(1)(a) and the Regulator has determined not to carry out such a review.
- (3) On a reference to <sup>[F2]</sup>the Tribunal in respect of a notice, the effect of the notice is suspended for the period beginning when the Tribunal receives notice of the reference and ending—
  - (a) when the reference is withdrawn or completed, or
  - (b) if the reference is made out of time, on the Tribunal determining not to allow the reference to proceed.
- (4) For the purposes of subsection (3), a reference is completed when—
  - (a) the reference has been determined,
  - (b) the Tribunal has remitted the matter to the Regulator, and
  - (c) any directions of the Tribunal for giving effect to its determination have been complied with.

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- [<sup>F3</sup>(4A) In this section “the Tribunal”, in relation to a reference under this section, means—
- (a) the Upper Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the Upper Tribunal is to hear the reference;
  - (b) the First-tier Tribunal, in any other case.]
- (5) <sup>F4</sup> .....
- (6) <sup>F5</sup> .....
- (7) <sup>F5</sup> .....
- (8) <sup>F4</sup> .....
- (9) <sup>F4</sup> .....

#### Textual Amendments

- F1** Words in s. 44 heading substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(e), 5(1), **Sch. 2 para. 149(a)** (with Sch. 5)
- F2** Words in s. 44(1)(3) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(e), 5(1), **Sch. 2 para. 149(b)** (with Sch. 5)
- F3** S. 44(4A) inserted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(e), 5(1), **Sch. 2 para. 149(c)** (with Sch. 5)
- F4** S. 44(5)(8)(9) repealed (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(g)(5)(c)(ii), 5(3), **Sch. 4 Pt. 2** (with Sch. 5); [Pensions Regulator Tribunal \(Transfer of Functions\) Act \(Northern Ireland\) 2010 \(2010 c. 4 \(N.I.\)\)](#), ss. 3(3), 5(2), **Sch. 3** (with Sch. 2); S.R. 2010/101, **art. 2**
- F5** S. 44(6)(7) repealed (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(g), 5(3), **Sch. 4 Pt. 2** (with Sch. 5)

#### Modifications etc. (not altering text)

- C5** S. 44 applied (27.4.2017 for specified purposes, 5.9.2018 for specified purposes, 1.10.2018 in so far as not already in force) by [Pension Schemes Act 2017 \(c. 17\)](#), **ss. 17(5)(c), 44(1)(a)**; S.I. 2018/965, reg. 2(a)(b)
- C6** S. 44 applied (27.4.2017 for specified purposes, 5.9.2018 for specified purposes, 1.10.2018 in so far as not already in force) by [Pension Schemes Act 2017 \(c. 17\)](#), **ss. 18(7)(c), 44(1)(a)**; S.I. 2018/965, reg. 2(a)(b)
- C7** S. 44 applied (31.5.2021 for specified purposes, 1.10.2021 in so far as not already in force) by 2004 c. 35, s. 77A(5)(c) (with s. 77A(6)) (as inserted by [Pension Schemes Act 2021 \(c. 1\)](#), **ss. 112, 131(1)**; S.I. 2021/620, reg. 2(1)(d); S.I. 2021/950, reg. 2(5)(c) (with reg. 5))
- C8** S. 44 applied (31.5.2021 for specified purposes, 1.10.2021 in so far as not already in force) by 2004 c. 35, s. 77B(7)(c) (with s. 77B(8)) (as inserted by [Pension Schemes Act 2021 \(c. 1\)](#), **ss. 112, 131(1)**; S.I. 2021/620, reg. 2(1)(d); S.I. 2021/950, reg. 2(5)(c) (with reg. 5))

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

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

- s. 3(1A) inserted by [2023 c. 44 s. 1\(2\)](#)
- s. 5(1C) inserted by [2023 c. 44 s. 1\(3\)](#)
- s. 13(3)(ec) inserted by [2023 c. 20 Sch. para. 56](#)
- s. 13A inserted by [2023 c. 44 s. 1\(4\)](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)
- s. 143(6)(7) inserted by [2023 c. 44 s. 1\(5\)\(b\)](#)