



# Pensions Act 2008

## 2008 CHAPTER 30

### PART 1

#### PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

#### CHAPTER 4

##### SUPPLEMENTARY PROVISION ABOUT COMPLIANCE AND INFORMATION-SHARING

##### *Records and information*

#### **60 Requirement to keep records**

- (1) For the purposes of Chapter 1 or 2 of this Part, the Secretary of State may by regulations make provision requiring any person—
  - (a) to keep, in such form and manner as may be prescribed, such records as may be prescribed;
  - (b) to preserve those records for such period, not exceeding 6 years, as may be prescribed;
  - (c) to provide those records, on request, to the Regulator.
- (2) Regulations under subsection (1) may provide that section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to a person who fails to comply with those requirements.

#### **61 Powers to require information and to enter premises**

- (1) The Pensions Act 2004 (c. 35) is amended as follows.
- (2) In section 72, after subsection (1) insert—

“(1A) If the Regulator requires information which is relevant to the exercise of its functions under Chapter 2 of Part 1 of the Pensions Act 2008 or section 51 of

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*Status: This is the original version (as it was originally enacted).*

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that Act, the Regulator may, by notice in writing, require a person to whom subsection (2) applies—

- (a) to furnish the Regulator with an explanation of any document or information required under subsection (1);
- (b) to attend before the Regulator at such time and place as may be specified in the notice under that subsection to furnish any such explanation.

(1B) The Regulator may not require a person to answer any question or furnish any information which might incriminate the person or, if that person is married or a civil partner, the person’s spouse or civil partner.”

(3) In section 74, before subsection (1) insert—

“(A1) An inspector may, for the purposes of investigating whether an employer is contravening, or has contravened—

- (a) any provision of, or of regulations under, Chapter 1 of Part 1, or section 50 or 54, of the Pensions Act 2008, or
  - (b) any corresponding provision in force in Northern Ireland,
- at any reasonable time enter premises liable to inspection.

(B1) Premises are liable to inspection for the purposes of subsection (A1) if the inspector has reasonable grounds to believe that—

- (a) the employer employs workers there,
- (b) documents relevant to any of the following are being kept there—
  - (i) the administration of the employer’s business,
  - (ii) the duties of the employer under Chapter 1 of Part 1 of the Pensions Act 2008 or under any corresponding provision in force in Northern Ireland,
  - (iii) the administration of a pension scheme that is relevant to the discharge of those duties, or
- (c) the administration of the employer’s business, or work connected with that administration, is being carried out there.

(C1) In subsections (A1) and (B1) “employer” and “worker” have the meaning given by section 88 of the Pensions Act 2008.

(D1) In the application of subsections (A1) and (B1) in relation to any provision mentioned in subsection (A1)(b) (a “corresponding Northern Ireland provision”), references in those subsections to “employer” or “worker” are to be read as having the meaning that they have for the purposes of the corresponding Northern Ireland provision.”

(4) In section 75(1), after “subsection” (in the third place where it occurs) insert “(A1),”.

(5) In section 76(9), after “subsection” (in the second place where it occurs) insert “(A1),”.

## **62 Disclosure of tax information etc**

(1) In the Pensions Act 2004 (c. 35), for section 88 (tax information) substitute—

**“88 Tax information etc**

- (1) This section applies to information held by the Revenue and Customs if it is held by them in connection with a function of the Revenue and Customs that relates to any of these matters—
    - (a) tax or duty;
    - (b) national insurance contributions;
    - (c) the national minimum wage.
  - (2) An officer of Revenue and Customs may disclose to the Regulator information to which this section applies, if the disclosure is made for the purpose of enabling or assisting the Regulator to discharge its functions.
  - (3) Where information to which this section applies is disclosed to the Regulator by virtue of subsection (2) above or section 19 of the Anti-terrorism, Crime and Security Act 2001 (disclosure of information held by revenue departments), it must, subject to subsections (4) and (5), be treated for the purposes of section 82 as restricted information.
  - (4) Information to which this section applies which is disclosed to the Regulator as mentioned in subsection (3) may not be disclosed by the Regulator or any person who receives the information directly or indirectly from the Regulator except—
    - (a) to, or in accordance with authority given by, the Commissioners for Her Majesty’s Revenue and Customs,
    - (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings,
    - (c) with a view to the institution of any other proceedings by the Regulator, or for the purposes of any such proceedings instituted by the Regulator,
    - (d) in accordance with section 84, otherwise than for the purposes of any proceedings, or
    - (e) in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.
  - (5) Accordingly sections 82(3), 83, 85 to 87 and 235, and paragraph 4 of Schedule 10, do not apply to such information, and section 84 applies subject to subsection (4)(d).
  - (6) In subsection (4)(c) and (d), “proceedings” includes the issue of notices or any other enforcement action taken by the Regulator under Chapter 2 of Part 1 of the Pensions Act 2008 or any other enactment.
  - (7) In this section “the Revenue and Customs” and a “function of the Revenue and Customs” have the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality).”
- (2) In section 82 of that Act (restricted information), in subsection (3) for “88(4)” substitute “88(5)”.

### **63 Information for private pensions policy and retirement planning**

- (1) In Schedule 10 to the Pensions Act 2004 (c. 35) (use and supply of information for purposes relating to private pensions policy and retirement planning), after paragraph 3 insert—

*“Supply of information held by the Regulator*

- 4 (1) This paragraph applies to information which is held—
- (a) by the Regulator;
  - (b) by a person providing services to the Regulator, in connection with the provision of those services.
- (2) Information to which this paragraph applies may be supplied—
- (a) to the Secretary of State or the Northern Ireland Department, or
  - (b) to a person providing services to the Secretary of State or the Northern Ireland Department,
- for use for the purposes of functions relating to private pensions policy or retirement planning.
- (3) In this paragraph—
- “private pensions policy” means policy relating to schemes which are occupational pension schemes or personal pension schemes within the meaning of Part 1 of the Pensions Act 2008; “retirement planning” and “the Northern Ireland Department” have the same meaning as in paragraph 2.”*

- (2) Section 323 of the Pensions Act 2004 (extent) is amended as follows.
- (3) In subsection (2)(c) (provisions extending to Northern Ireland)—
- (a) for “paragraph 2” substitute “paragraphs 2 and 4”;
  - (b) for “that paragraph” substitute “those paragraphs”.
- (4) In subsection (4), for “paragraph 2” substitute “paragraphs 2 and 4”.
- (5) Section 3 of the Social Security Act 1998 (c. 14) (use of information) is amended as follows.
- (6) In subsection (5), in the definition of “private pensions policy”—
- (a) the words from “occupational” to the end become paragraph (a), and
  - (b) after that paragraph insert “or
- (b) occupational pension schemes or private pension schemes within the meaning of Part 1 of the Pensions Act 2008, if they do not fall within paragraph (a);”.

### **64 Penalty for disclosure**

- (1) In section 82(5)(a) of the Pensions Act 2004 (penalty for disclosure of restricted information, on summary conviction), at the end insert “, or imprisonment for a term not exceeding 12 months, or both”.
- (2) After subsection (5) insert—

“(6) In relation to an offence under subsection (5) committed before the commencement of section 282 of the Criminal Justice Act 2003 (short sentences) the reference in subsection (5)(a) to 12 months has effect as if it were a reference to six months.

(7) Subsection (6) does not extend to Scotland.”