



## 2008 CHAPTER 13

### PART 1

#### PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

##### CHAPTER 4

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

##### *Records and information*

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

**59.—**(1) For the purposes of Chapter 1 or 2, the Department 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 Article 10 of the 1995 Order (civil penalties) applies to a person who fails to comply with those requirements.

##### **Commencement Information**

- II** S. 59 partly in force; s. 59 in force for certain purposes at Royal Assent see s. 118(2)

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VALID FROM 30/06/2012

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

**60.**—(1) The 2005 Order is amended as follows.

(2) In Article 67 (provision of information), after paragraph (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 (No. 2) Act (Northern Ireland) 2008 or section 51 of that Act, the Regulator may, by notice in writing, require a person to whom paragraph (2) applies—

- (a) to furnish the Regulator with an explanation of any document or information required under paragraph (1);
- (b) to attend before the Regulator at such time and place as may be specified in the notice under that paragraph 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 Article 69 (inspection of premises in respect of employers' obligations), before paragraph (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 (No. 2) Act (Northern Ireland) 2008, or
- (b) any corresponding provision in force in Great Britain,

at any reasonable time enter premises liable to inspection.

(B1) Premises are liable to inspection for the purposes of paragraph (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 (No. 2) Act (Northern Ireland) 2008 or any corresponding provision in force in Great Britain,
  - (iii) the administration of a pension scheme that is relevant to the discharge of those duties, or

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(c) the administration of the employer's business, or work connected with that administration, is being carried out there.

(C1) In paragraphs (A1) and (B1) “employer” and “worker” have the meaning given by section 70 of the Pensions (No. 2) Act (Northern Ireland) 2008.

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

(4) In Article 70(1) (inspection of premises: powers of inspectors), after “paragraph” (in the third place where it occurs) insert “ (A1), ”.

(5) In Article 71(9) (inspection of premises: supplementary), after “paragraph” (in the second place where it occurs) insert “ (A1), ”.

#### **Disclosure of tax information etc.**

**61.—**(1) In the 2005 Order, for Article 83 (tax information) substitute—

##### **“Tax information etc.**

**83.—**(1) This Article 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 Article 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 Article applies is disclosed to the Regulator by virtue of paragraph (2) or section 19 of the Anti-terrorism, Crime and Security Act 2001 (disclosure of information held by revenue departments), it must, subject to paragraphs (4) and (5), be treated for the purposes of Article 77 as restricted information.

(4) Information to which this Article applies which is disclosed to the Regulator as mentioned in paragraph (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,

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- (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 Article 79, 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 Articles 77(3), 78 and 80 to 82, and section 235 of and paragraph 4 of Schedule 10 to, the Pensions Act 2004, do not apply to such information, and Article 79 applies subject to paragraph (4)(d).

(6) In paragraph (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 (No. 2) Act (Northern Ireland) 2008 or any other provision.

(7) In this Article “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 Article 77 of that Order (restricted information) in paragraph (3) for “83(4)” substitute “ 83(4)(d) ”.

### **Penalty for disclosure**

**62** In Article 77(5)(a) of the 2005 Order (penalty for disclosure of restricted information, on summary conviction) at the end add “ , or imprisonment for a term not exceeding six months, or both ”.

VALID FROM 16/03/2011

### *Objectives of the Regulator*

#### **Objectives of the Regulator**

**63** In Article 4(1) of the 2005 Order (Regulator's objectives), before “and” at the end of sub-paragraph (c) insert—

- “(ca) to maximise compliance with the duties under Chapter 1 of Part 1 (and the safeguards in sections 50 and 54) of the Pensions (No. 2) Act (Northern Ireland) 2008,”.

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### *Functions of the Pensions Ombudsman*

#### **Functions of the Pensions Ombudsman**

**64.—**(1) Section 142 of the Pension Schemes Act (functions of the Pensions Ombudsman) is amended as follows.

(2) In subsection (7), after paragraph (ba) insert—

“(bb) a person who has given notice in accordance with section 8 of the Pensions (No. 2) Act (Northern Ireland) 2008 (right to opt out of membership of an automatic enrolment scheme);”.

(3) In paragraph (c)(i) of that subsection, for “or (ba)” substitute “, (ba) or (bb)”.

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