



2008 CHAPTER 13

PART 5

MISCELLANEOUS

*Miscellaneous provisions relating to pensions*

**Amendments of provisions of the 2005 Order relating to contribution notices or financial support directions**

**103.** Schedule 8 (which amends the 2005 Order in relation to contribution notices and financial support directions) has effect.

**Interest on late payment of levies**

**104.** Schedule 9 (which makes provision about payment of interest on late payment of levies) has effect.

**Payments to employers**

**105.** In Article 37 of the 1995 Order (payment of surplus to employer) after paragraph (1) insert—

“(1A) But this Article does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments).”.

**Appointment of trustees**

**106.**—(1) In Article 7 of the 1995 Order (appointment of trustees), in paragraph (3)—

- (a) for “necessary”, in the first place where it occurs, substitute “reasonable”;
- (b) omit “or” at the end of sub-paragraph (b);
- (c) at the end add “, or
- (d) otherwise to protect the interests of the generality of the members of the scheme.”.

(2) In paragraph 9(b) of Schedule 2 to the 2005 Order (reserved regulatory functions), for “or (c)” substitute “, (c) or (d)”.

**Intervention by the Regulator where scheme’s technical provisions improperly determined**

**107.** In Article 210 of the 2005 Order (powers of the Regulator), before sub-paragraph (a) of paragraph (1) insert—

- “(za) that the trustees or managers, when determining the methods and assumptions to be used in calculating the scheme’s technical provisions, have failed to comply with a requirement imposed under Article 201(4)(c);”.

**Delegation of powers by the Regulator**

**108.**—(1) In paragraph 2 of Schedule 1 to the 2005 Order (regulations relating to delegation of the Pensions Regulator’s functions) the existing provision becomes sub-paragraph (1).

(2) For paragraph (d) of that sub-paragraph substitute—

- “(d) permitting the Regulator to authorise such persons, in such circumstances and under such arrangements, as the Regulator may determine, to exercise on behalf of the Regulator—
  - (i) the power to determine whether to exercise any of the functions listed in sub-paragraph (2) ;
  - (ii) the power to exercise any of the functions listed in sub-paragraph (2) or such other functions as may be prescribed.”.

(3) After that sub-paragraph insert—

- “(2) The functions mentioned in sub-paragraph (1)(d) are—
  - (a) the power to issue an improvement notice under Article 9;
  - (b) the power to issue a third party notice under Article 10;
  - (c) the power to recover unpaid contributions under Article 13;
  - (d) the power to require information under Article 67;

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

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- (e) the power to vary or revoke a determination, order, notice or direction under Article 96;
- (f) the power to require payment of a penalty under Article 10 of the 1995 Order;
- (g) the power to issue a compliance notice under section 35 of the Pensions (No. 2) Act (Northern Ireland) 2008;
- (h) the power to issue a third party compliance notice under section 36 of that Act;
- (i) the power to issue an unpaid contributions notice under section 37 of that Act;
- (j) the power to issue a fixed penalty notice under section 40 of that Act;
- (k) the power to issue an escalating penalty notice under section 41 of that Act;
- (l) the power to recover penalties under section 42 of that Act;
- (m) the power to review a notice under section 43 of that Act;
- (n) the power to issue a compliance notice in respect of prohibited recruitment conduct under section 51 of that Act;
- (o) the power to issue a penalty notice in respect of prohibited recruitment conduct under section 52 of that Act.”.

(4) Subsections (1) to (3)—

- (a) do not affect any regulations made under paragraph 2(d) of Schedule 1 to the 2005 Order before the coming into operation of this section, and
- (b) do not affect the powers conferred by that paragraph, so far as exercisable for the purpose of making, by way of consolidation, provision having the same effect as any provision of those regulations.

**Exclusion of transfers out in certain cases**

**109.**—(1) The Pension Schemes Act is amended as follows.

(2) In section 89(1B) (regulations as to the application of provisions relating to transfers for early leavers) after paragraph (a) insert—

“(aa) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;”.

(3) In section 97F (transfer notice in respect of pension credit benefit) after subsection (6) insert—

“(6A) Regulations may provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description.”.