



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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- (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.”.

*Official pensions*

**Official pensions: adjustment of increases in survivors' pensions**

**110.**—(1) Article 69 of the [Social Security Pensions \(Northern Ireland\) Order 1975 \(NI 15\)](#) (increase of official pensions) is amended as follows.

(2) Paragraph (5ZA) is amended as follows.

(3) In the words before sub-paragraph (a)—

(a) for “or widower's” substitute “, widower’s or surviving civil partner's”;

(b) after “spouse” insert “or civil partner”.

(4) In sub-paragraph (a), after “spouse” insert “or civil partner”.

(5) In sub-paragraph (b)—

(a) after “period” insert “(“the relevant time”);

(b) for the words from “one half” to the end substitute “the rate provided for in paragraph (5ZB);”.

(6) In sub-paragraph (c), for “or widower's” substitute “, widower’s or surviving civil partner's”.

(7) Omit the words from “but this paragraph” to the end.

(8) After paragraph (5ZA) insert—

“(5ZB) The rate referred to in paragraph (5ZA)(b) is—

(a) in the case of a widow’s pension, one half of the rate of the deceased husband’s guaranteed minimum pension at the relevant time;

(b) in the case of a widower’s pension, one half of so much of the rate of the deceased wife’s guaranteed minimum pension at the relevant time as is attributable to earnings factors for the tax year 1988–89 and subsequent tax years;

(c) in the case of a surviving civil partner’s pension, one half of so much of the rate of the deceased civil partner’s guaranteed minimum pension at the relevant time as is attributable to earnings factors for the tax year 1988–89 and subsequent tax years.

(5ZC) Paragraph (5ZA)—

(a) does not apply to a widow’s or widower’s pension in respect of any service of the deceased spouse if the deceased spouse’s pension

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in respect of that service became payable before 24th September 1990;

- (b) applies to a surviving civil partner's pension only in respect of amounts payable after the coming into operation of this paragraph.”.

*Information relating to state pension credit recipients*

**Disclosure of information relating to state pension credit recipients**

**111.**—(1) The Department may by regulations make provision authorising the Department, or a person providing services to the Department, to supply relevant persons with social security information about persons in receipt of state pension credit.

(2) In this section “relevant person” means—

- (a) a person who holds a licence under Article 10(1)(c) or (2) of the [Electricity \(Northern Ireland\) Order 1992 \(NI 1\)](#) or Article 8(1)(c) of the [Gas \(Northern Ireland\) Order 1996 \(NI 2\)](#) (supply of electricity or gas to premises), or
- (b) a person providing services to the Department or to a person within paragraph (a).

(3) Regulations under this section must specify the purposes for which information may be supplied by virtue of subsection (1), which must be purposes in connection with enabling the provision of assistance to persons in receipt of state pension credit.

(4) Regulations under this section may authorise the supply of information by a relevant person to the Department or another relevant person—

- (a) for the purpose of determining what information is to be supplied by virtue of subsection (1), or
- (b) to enable information supplied to a relevant person by virtue of subsection (1) to be used by that or another relevant person for purposes within subsection (3).

(5) Regulations under this section may—

- (a) make provision as to the use or disclosure of information supplied under the regulations (including provision creating criminal offences);
- (b) provide for the recovery by the Department of costs incurred in connection with the supply or use of information under the regulations.

(6) In this section—

“social security information” means information held by or on behalf of the Department and obtained as a result of, or for the purpose of, the exercise of the Department’s functions in relation to social security;

“state pension credit” has the meaning given by section 1(1) of the State Pension Credit Act (Northern Ireland) [2002 \(c. 14\)](#).