



## 2021 CHAPTER 6

### PART 1

#### Master Trusts

##### *Ongoing supervision of Master Trust schemes*

##### **Escalating penalty notice for failure to comply with request for information**

**18.—**(1) The Regulator may issue an escalating penalty notice to a person if it considers that the person has failed to comply with a notice issued under Article 67 of the 2005 Order (provision of information to Regulator on request), so far as relevant to the exercise of any of the Regulator’s functions under or by virtue of this Part (an “Article 67 notice”).

(2) But the Regulator may not issue an escalating penalty notice to a person if—

- (a) the person has exercised the right of referral to a tribunal under section 44 of the Pensions (No. 2) Act (as applied by section 17(5)) in respect of a fixed penalty notice issued under section 17 in relation to the Article 67 notice, and
- (b) the reference has not been determined.

(3) An escalating penalty notice is a notice requiring the person to whom it is issued to pay an escalating penalty if the person fails to comply with an Article 67 notice.

(4) An escalating penalty is a penalty which is calculated by reference to a daily rate.

(5) The daily rate—

- (a) is to be determined in accordance with regulations made by the Department, and
  - (b) must not exceed £10,000.
- (6) An escalating penalty notice must—
- (a) specify the failure to which the penalty relates;
  - (b) state that, if the person fails to comply with the Article 67 notice before a specified date, the person will be liable to pay an escalating penalty;
  - (c) state the daily rate of the escalating penalty and the way in which the penalty is calculated;
  - (d) state the date from which the escalating penalty will be payable, which must not be earlier than the date specified in the fixed penalty notice under section 17(4)(b);
  - (e) state that the escalating penalty will continue to be payable at the daily rate until the date on which the person complies with the Article 67 notice or such earlier date as the Regulator may determine;
  - (f) notify the person to whom the notice is issued of the review process under section 43 of the Pensions (No. 2) Act and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (7)).
- (7) The following sections of the Pensions (No. 2) Act apply to an escalating penalty notice under this section as they apply to an escalating penalty notice under section 41 of that Act—
- (a) section 42 (penalty notices: recovery);
  - (b) section 43 (review of penalty notices);
  - (c) section 44 (references to First-tier Tribunal or Upper Tribunal).
- (8) Regulations under this section are subject to negative resolution.