

2022 No. 197 (C. 22)

PENSIONS

**The Pension Schemes Act 2021
(Commencement No. 5 and Transitional Provision)
Order (Northern Ireland) 2022**

Made - - - -

27th July 2022

The Department for Communities makes the following Order in exercise of the powers conferred by section 131(2), (4) and (6) of the Pension Schemes Act 2021(a).

Citation and interpretation

1.—(1) The Order may be cited as the Pension Schemes Act 2021 (Commencement No. 5 and Transitional Provision) Order (Northern Ireland) 2022.

(2) In this Order “the Act” means the Pension Schemes Act 2021.

Provisions coming into operation on 28th July 2022

2. The day appointed for the coming into operation of the following provisions of the Act is 28th July 2022—

- (a) section 117(b) (the Pensions Regulator: Northern Ireland) and paragraph 16 of Schedule 8 (amendments of the Pensions (Northern Ireland) Order 2005) in so far as they relate to the provisions specified in paragraph (b), and
- (b) paragraphs 27 to 31 of Schedule 8 (minor and consequential amendments).

Provisions coming into operation on 1st August 2022

3. The day appointed for the coming into operation of the following provisions of the Act is 1st August 2022—

- (a) Part 2 (collective money purchase benefits: Northern Ireland) in so far as it is not in operation, except for paragraph 20 of Schedule 6 (collective money purchase benefits: minor and consequential amendments) and section 99 and paragraph 11 in so far as they relate to paragraph 20;
- (b) paragraph 10 of Schedule 8 (inspection of premises) in so far as it is not in operation;
- (c) paragraph 12 of Schedule 8 (provision of false or misleading information to Regulator) in so far as it inserts paragraph (2)(c)(v) of Article 75A into the Pensions (Northern Ireland) Order 2005(b) (financial penalty for providing false or misleading information to Regulator);

(a) 2021 c. 1

(b) S.I. 2005/255 (N.I. 1); Article 75A was inserted by paragraph 12 of Schedule 8 to the Pension Schemes Act 2021

- (d) section 117(a) and paragraph 1 of Schedule 8 in so far as they relate to the provisions specified in paragraphs (b) and (c);
- (e) section 117(b) and Part 2 of Schedule 8 in so far as they are not in operation;
- (f) paragraph 16 of Schedule 11 (categories of pension schemes: repeal of provisions of Pension Schemes Act (Northern Ireland) 2016), except for sub-paragraph (c) in so far as it omits section 44 of the Pension Schemes Act (Northern Ireland) 2016(a) (removal of requirement to maintain register of independent trustees), and
- (g) section 129(b) (further provision relating to pension schemes: Northern Ireland) in so far as it relates to the provisions specified in paragraph (f).

Transitional provision in respect of schemes which were established before 1st August 2022

4.—(1) Subject to paragraph (2), section 54 of the Act (qualifying schemes) does not apply to a pension scheme which was established before 1st August 2022.

(2) Where—

- (a) a pension scheme which was established before 1st August 2022 is divided into sections for the purpose of providing benefits under the scheme which are qualifying benefits under section 53 of the Act (qualifying benefits) (whether or not the scheme has previously been divided into sections), and
- (b) a section of the pension scheme which provides, or is to provide, such benefits—
 - (i) first operates after 31st July 2022;
 - (ii) does not first operate before it is authorised, and
 - (iii) does not have rights to benefits under the scheme attributed to it before the date that it first operates,

section 54 of the Act applies to the pension scheme in so far only as required to permit the application of section 52(2)(b) of the Act (collective money purchase benefits and schemes) to any such section of the pension scheme.

(3) For the purposes of this Order, a section of a pension scheme first operates when payments made by or on behalf of or in respect of members of the scheme for the purpose of providing benefits under the scheme are first allocated to the section.

(4) In this Article “authorised” and “pension scheme” each have the meaning given in section 100(1) of the Act.

Sealed with the Official Seal of the Department for Communities on 27th July 2022

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation certain provisions of the Pension Schemes Act 2021 (“the Act”). The Order also contains a transitional provision in relation to section 54 of the Act (qualifying schemes).

Article 2 brings into operation paragraphs 27 to 31 of Schedule 8 to the Act (the Pensions Regulator: Northern Ireland) and section 117(b) of, and paragraph 16 of Schedule 8 to, the Act in so far as they relate to paragraphs 27 to 31 on 28th July 2022.

Section 117 of the Act introduces Schedule 8 to the Act, which contains minor and consequential amendments to primary legislation in consequence of the powers conferred on the Pensions Regulator (“the Regulator”).

Paragraphs 27 and 28 of Schedule 8 amend the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”). Paragraph 27 adds further powers to the list in Part 1 of Schedule 1 to the 2005 Order (delegation) of the Regulator’s powers in relation to which the Department for Communities can make an order. Paragraph 28 adds a further power to the list in Part 4 of Schedule 2 to the 2005 Order (functions under this Order) of reserved regulatory functions exercisable by the Determinations Panel on behalf of the Regulator.

Paragraphs 29 to 31 of Schedule 8 amend the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)). The amendments confer powers on the Regulator to issue penalty notices in the event of a failure to comply with a notice issued under Article 67A of the 2005 Order (interviews) relating to the Regulator’s functions under Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 (pension scheme membership for jobholders).

Article 3 brings the provisions it lists into operation on 1st August 2022. Article 3(a) brings into operation the remainder of Part 2 of the Act (collective money purchase benefits: Northern Ireland), except paragraph 20 of Schedule 6. Paragraph 20 of Schedule 6 amends Article 267 of the 2005 Order (duty of trustees or managers to act consistently with law of host EEA state) which has been repealed. Part 2 of the Act sets out the legislative framework to establish and operate collective money purchase pension schemes.

Article 3(b), (c) and (d) brings provisions of Part 1 of Schedule 8 to the Act into operation which relate to the regime for collective money purchase schemes contained in Part 2 of the Act. Article 3(f) brings most of paragraph 16 of Schedule 11 to the Act (categories of pension schemes: repeal of provisions of Pension Schemes Act (Northern Ireland) 2016) into operation. Paragraph 16 of Schedule 11 repeals uncommenced provisions in Parts 1 to 3 of the Pension Schemes Act (Northern Ireland) 2016 (“the 2016 Act”) concerning collective benefits, the categorisation of pension schemes and related matters. Article 3(f) excludes the repeal of section 44 of the 2016 Act (removal of requirement to maintain register of independent trustees) from the commencement of paragraph 16 of Schedule 8 to the Act. Section 44 of the 2016 Act repeals the requirement for the Regulator to maintain a list of independent trustees which satisfy prescribed requirements.

Article 4 makes transitional provision. Article 4(1) provides that section 54 of the Act does not apply to a pension scheme established before 1st August 2022. Section 54 sets out the conditions for a pension scheme to be a qualifying scheme under the regime for collective money purchase benefits. Article 4(2) provides for a limited exception to Article 4(1), in the case of sections of a pension scheme established before 1st August 2022 where certain conditions are satisfied.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Pension Schemes Act 2021 have been brought into operation by earlier commencement orders as from the dates shown.

<i>Provision</i>		<i>Date of Commencement</i>	<i>S.R. No.</i>
Section 99	(partially)	29th April 2022	2022 No. 173 (C. 19)
Section 117	(partially)	1st October 2021	2021 No. 240 (C. 8)
	(partially)	1st October 2021	2021 No. 271 (C. 11)
Section 129	(partially)	1st October 2021	2021 No. 240 (C. 8)
	(partially)	29th September 2021	2021 No. 271 (C. 11)
	(partially)	1st October 2021	2021 No. 271 (C. 11)
	(partially)	30th November 2021	2021 No. 300 (C. 12)
Schedule 6	(partially)	29th April 2022	2022 No. 173 (C. 19)
Schedule 8	(partially)	1st October 2021	2021 No. 240 (C. 8)
	(partially)	1st October 2021	2021 No. 271 (C. 11)
Schedule 11	(partially)	1st October 2021	2021 No. 240 (C. 8)
	(partially)	29th September 2021	2021 No. 271 (C. 11)
	(partially)	1st October 2021	2021 No. 271 (C. 11)
	(partially)	30th November 2021	2021 No. 300 (C. 12)

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