
DRAFT STATUTORY INSTRUMENTS

2015 No.

**The Occupational Pension Schemes
(Charges and Governance) Regulations 2015**

PART 4

COMPLIANCE

Penalty notices

- 28.**—(1) Subject to paragraph (2), the Regulator may issue a penalty notice to—
- (a) a third party where it is of the opinion that the third party has failed to comply with a third party compliance notice under regulation 27; or
 - (b) the trustees or managers where it is of the opinion that they have failed to comply with—
 - (i) a compliance notice under regulation 26;
 - (ii) a provision in Part 2 of these Regulations; or
 - (iii) a provision in Part V of the Administration Regulations.
- (2) Where—
- (a) the Regulator is in receipt of an indication pursuant to regulation 3(1)(h)(1) of the Register of Occupational and Personal Pension Schemes Regulations 2005 that the trustees or managers have failed to prepare the statement that they are required to prepare by regulation 23(2) of the Administration Regulations; or
 - (b) the Regulator is of the opinion that the trustees or managers have failed to prepare the statement that they are required to prepare by regulation 23 of the Administration Regulations,
- the Regulator must issue a penalty notice to the trustees or managers in relation to a first failure in connection with a scheme year.
- (3) A penalty notice is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.
- (4) The amount of a penalty is to be determined by the Regulator but—
- (a) in relation to a penalty notice issued under paragraph (1) must not exceed—
 - (i) £5,000 if the person is an individual, or
 - (ii) £50,000 if the person is a body corporate or a Scottish partnership or any other person;
 - (b) in relation to a penalty notice issued under paragraph (2), must be at least £500 and must not exceed £2,000.
- (5) A penalty notice must—

(1) Inserted by regulation 24(3) of these Regulations.

(2) Inserted by regulation 17 of these Regulations.

- (a) where it is issued to trustees or managers, be issued to all the trustees or managers of the relevant scheme and specify their joint and several liability for the penalty;
 - (b) where it is issued to a body corporate, be issued to all officers of that body corporate who are required to pay the penalty in accordance with regulation 30(1) and specify their joint and several liability for the penalty;
 - (c) where it is issued to a Scottish partnership, be issued to all the partners of that Scottish partnership and specify their joint and several liability for the penalty;
 - (d) state the amount of the penalty;
 - (e) state the date, which must be at least 4 weeks after the date on which the notice is issued, by which the penalty must be paid;
 - (f) state the period (if any) to which the penalty relates;
 - (g) if the notice is issued under paragraph (1)(a) or (b)(i), specify the failure to which the notice relates;
 - (h) if the notice is issued under paragraph (1)(b)(ii) or (iii), specify the provision or provisions that have not been complied with;
 - (i) notify the person to whom the notice is issued of the review process under regulation 31 and the right of referral to a tribunal under regulation 32.
- (6) In paragraph (5)(b), “officer” means—
- (a) any director, manager, secretary or other similar person in the body,
 - (b) a person purporting to act in any such capacity,
 - (c) where the affairs of the body are managed by its members, any member who has management functions.