



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Codes of practice

90 Codes of practice

- (1) The Regulator may issue codes of practice—
 - (a) containing practical guidance in relation to the exercise of functions under the pensions legislation, and
 - (b) regarding the standards of conduct and practice expected from those who exercise such functions.
- (2) The Regulator must issue one or more such codes of practice relating to the following matters—
 - (a) what constitutes a “reasonable” period for the purposes of any provision of the pensions legislation (other than any enactment contained in or made by virtue of Part 2) which requires any action to be taken within such a period;
 - (b) the discharge of the duty imposed by section 69 (duty to notify Regulator of certain events);
 - (c) the discharge of the duty imposed by section 70 (duty to report breaches of the law);
 - (d) the discharge of duties imposed on trustees or managers of occupational pension schemes by, or by virtue of, Part 3 (scheme funding);
 - (e) the discharge of the duties imposed by sections 241 and 242 (member-nominated trustees and directors);
 - (f) the obligations imposed by sections 247 and 248 (requirements for knowledge and understanding: individual and corporate trustees);
 - (g) the discharge of the duty imposed by section 49(9)(b) of the Pensions Act 1995 (c. 26) (duty of trustees or managers of occupational pension schemes

Status: Point in time view as at 06/04/2005.

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- to report material failures by employers to pay contributions deducted from employee's earnings timeously);
- (h) the discharge of the duties imposed by sections 67 to 67I of that Act (the subsisting rights provisions);
 - (i) the discharge of the duty imposed by section 88(1) of that Act (duties of trustees and managers of money purchase schemes to report failures to pay employer contributions etc timeously);
 - (j) the discharge of the duty imposed by section 111A(7A) of the Pension Schemes Act 1993 (c. 48) (duty of trustees or managers of personal pension schemes to report material failures to pay employer contributions timeously);
 - (k) such other matters as are prescribed for the purposes of this section.
- (3) The Regulator may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code.
- (4) A failure on the part of any person to observe any provision of a code of practice does not of itself render that person liable to any legal proceedings.
- This is subject to section 13(3)(a) and (8) (power for improvement notice to direct that person complies with code of practice and civil penalties for failure to comply).
- (5) A code of practice issued under this section is admissible in evidence in any legal proceedings and, if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings, it must be taken into account in determining that question.
- (6) In this section—
- “legal proceedings” includes proceedings of the Pensions Ombudsman, proceedings of the Ombudsman for the Board of the Pension Protection Fund and proceedings of the Board of the Pension Protection Fund under section 207 or 208; and
- “the pensions legislation” means any enactment contained in or made by virtue of—
- (a) the Pension Schemes Act 1993 (c. 48),
 - (b) Part 1 of the Pensions Act 1995 (c. 26), other than sections 62 to 66A of that Act (equal treatment),
 - (c) Part 1 or section 33 of the Welfare Reform and Pensions Act 1999 (c. 30), or
 - (d) this Act.
- (7) Sections 91 and 92 make provision about the procedure to be followed when a code of practice is issued or revoked.

Commencement Information

II S. 90(1)(2)(a)-(j)(3)-(7) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

91 Procedure for issue and publication of codes of practice

- (1) Where the Regulator proposes to issue a code of practice it must prepare and publish a draft of the code.

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- (2) Where the Regulator publishes a draft under subsection (1), it must consult—
 - (a) such persons as it considers appropriate, and
 - (b) any other persons the Secretary of State requires it to consult.
- (3) Having considered any representations made on the draft, the Regulator must make such modifications to it as it considers appropriate.
- (4) Subsections (2) and (3) do not apply—
 - (a) to a code made for the purpose only of consolidating other codes issued under section 90, or
 - (b) to a code if the Secretary of State considers consultation inexpedient by reason of urgency.
- (5) If the Regulator determines to proceed with a draft, it must send it to the Secretary of State who—
 - (a) if he approves of it, must lay it before Parliament, and
 - (b) if he does not approve of it, must publish details of his reasons for withholding approval.
- (6) Where a draft is laid before Parliament under subsection (5)(a)—
 - (a) if within the period mentioned in subsection (7) either House so resolves, no further proceedings may be taken on the draft code;
 - (b) if no such resolution is passed, the Regulator must issue the code in the form of the draft.
- (7) The period referred to in subsection (6)(a) is the period of 40 days—
 - (a) beginning with the day on which the draft is laid before Parliament (or, if it is laid before the two Houses on different days, with the later of the two days), and
 - (b) ignoring any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) The fact that no further proceedings may be taken on a draft code in accordance with subsection (6)(a) does not prevent the laying of a new draft.
- (9) A code issued in accordance with subsection (6)(b) shall come into effect on such day as the Secretary of State may by order appoint.

Without prejudice to section 315, such an order may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice brought into operation.
- (10) The Regulator must arrange for any code issued by it under section 90 to be published in the way appearing to it to be appropriate.
- (11) The Regulator may charge a reasonable fee for providing a person with a copy of a code published under this section.
- (12) This section applies to a revised code as it applies to the first issue of a code.

Modifications etc. (not altering text)

C1 S. 91(9) power exercised: 6.4.2005 appointed by [S.I. 2005/1108](#), art. 2(1)

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Commencement Information

- I2** S. 91(1)-(9) in force at 17.12.2004 by [S.I. 2004/3350, art. 2, Sch.](#)
I3 S. 91(10)-(12) in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

92 Revocation of codes of practice

- (1) A code of practice may be revoked by the Secretary of State by order.
- (2) An order under this section may be made only with the consent of the Regulator.
- (3) Without prejudice to section 315, an order under this section may contain such savings as appear to the Secretary of State to be necessary or expedient in connection with the revocation of the code.

Commencement Information

- I4** S. 92 in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

Status:

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