

Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2021, Cross Heading: Pensions Act 2004 (c. 35). (See end of Document for details)

SCHEDULES

SCHEDULE 7

THE PENSIONS REGULATOR: MINOR AND CONSEQUENTIAL AMENDMENTS

Pensions Act 2004 (c. 35)

2 The Pensions Act 2004 is amended as follows.

Commencement Information

- I1** Sch. 7 para. 2 in force at 31.5.2021 for specified purposes by S.I. 2021/620, reg. 2(2)(a)
- I2** Sch. 7 para. 2 in force at 25.6.2021 for specified purposes by S.I. 2021/752, reg. 2(a)
- I3** Sch. 7 para. 2 in force at 1.10.2021 for specified purposes by S.I. 2021/950, reg. 2(4)(b)
- I4** Sch. 7 para. 2 in force at 29.6.2022 for specified purposes by S.I. 2022/721, reg. 2(c)
- I5** Sch. 7 para. 2 in force at 1.8.2022 in so far as not already in force by S.I. 2022/721, reg. 3(d)

3 In section 38B (section 38 contribution notice issued by reference to material detriment test: defence), in subsection (12), for paragraph (b) substitute—
“(b) a reference to a party to an act or failure to act includes a reference to a person who knowingly assists in the act or failure;”.

Commencement Information

- I6** Sch. 7 para. 3 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(c)

4 In section 75 (inspection of premises: powers of inspectors), in subsection (1)—
(a) after “subsection (1),” insert “ (2A), ”;
(b) for “(3) or (4)” substitute “ (3), (4) or (5A) ”.

Commencement Information

- I7** Sch. 7 para. 4 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(c)

5 (1) Section 76 (inspection of premises: supplementary) is amended as follows.
(2) In subsection (3)(a)—
(a) after “virtue of”, in the second place it occurs, insert “ section 77A, 77B or 88A of this Act, ”;
(b) for “either of them” substitute “ any of those provisions ”.
(3) In subsection (9)—
(a) after “(1),” insert “ (2A), ”;
(b) for “(3) or (4)” substitute “ (3), (4) or (5A) ”.

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I8 Sch. 7 para. 5 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(c)

- 6 In section 78 (warrants), in subsection (1)(c)(iii)—
- (a) after “virtue of”, in the first place it occurs, insert “ section 77A, 77B or 88A of this Act, ”;
 - (b) for “either of them” substitute “ any of those provisions ”.

Commencement Information

I9 Sch. 7 para. 6 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(c)

- 7 (1) Section 80 (offences of providing false or misleading information) is amended as follows.
- (2) In subsection (1)(a), after sub-paragraph (iii) insert—
 “(iiiia) section 72A (interviews),”.
- (3) In subsection (1)(c), for “under this Act or the Pensions Act 1995 (c. 26)” substitute “under—
- (i) the Pensions Act 1995,
 - (ii) this Act,
 - (iii) the Pensions Act 2008,
 - (iv) Schedule 18 to the Pensions Act 2014,
 - (v) the Pension Schemes Act 2017, or
 - (vi) Part 1 of the Pension Schemes Act 2021”.

Commencement Information

I10 Sch. 7 para. 7 in force at 1.10.2021 for specified purposes by S.I. 2021/950, reg. 2(4)(d)

I11 Sch. 7 para. 7(1)(3) in force at 1.8.2022 in so far as not already in force by S.I. 2022/721, reg. 3(d)

- 8 In section 90 (codes of practice), in subsection (2)—
- (a) in paragraph (aa), after “test” insert “ , the employer insolvency test or the employer resources test ”;
 - (b) after paragraph (b) insert—
 “(ba) the discharge of the duties imposed by section 69A (duty to give notices and statements to the Regulator in respect of certain events);”.

Commencement Information

I12 Sch. 7 para. 8(a) in force at 31.5.2021 by S.I. 2021/620, reg. 2(2)(d)

I13 Sch. 7 para. 8(b) in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(e)

- 9 (1) Section 96 (the Regulator's standard procedure in relation to its regulatory functions) is amended as follows.

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- (2) In subsection (1A)(b), after “test” insert “, the employer insolvency test or the employer resources test”.
- (3) In subsection (1B)—
- (a) in paragraph (a), after “38B,” insert “ 38D or 38F (as the case may be) ”;
 - (b) in paragraph (b), for “subsection (2) of that section” substitute “ section 38B(2), 38D(2) and (3) or 38F(2) (as the case may be) ”.

Commencement Information

I14 Sch. 7 para. 9 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(f)

- 10 In section 256 (no indemnification for fines or civil penalties), in subsection (1)(b), after “virtue of” insert “ section 77A, 77B or 88A of this Act, ”.

Commencement Information

I15 Sch. 7 para. 10 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(f)

- 11 (1) Section 310 (admissibility of statements) is amended as follows.
- (2) In subsection (3)(b)—
- (a) after “financial penalty” insert “ on a relevant ground ”;
 - (b) after “virtue of—” insert—
 - “(ai) section 88A (financial penalties),”;
 - (c) for sub-paragraph (i) (and the “or” following it) substitute—
 - “(i) section 168 of the Pension Schemes Act 1993 (breach of regulations),
 - (ia) section 10 of the Pensions Act 1995 (civil penalties),
 - (ib) paragraph 10 of Schedule 17 to the Pensions Act 2014 (penalties for contravention of regulations etc),
 - (ic) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc),”;
 - (d) for sub-paragraph (ii) substitute—
 - “(ii) section 164 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (breach of regulations),
 - (iii) Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties),
 - (iv) Article 83A of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (financial penalties),
 - (v) Article 215G of that Order (penalties for contravention of regulations under Article 215D),
 - (vi) paragraph 10 of Schedule 17 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) (penalties for contravention of regulations etc), or

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(vii) paragraph 3 of Schedule 18 to that Act (penalties for contravention of regulations etc).”

(3) After subsection (3) insert—

“(3A) For the purposes of this section a financial penalty is payable on a relevant ground if it is payable otherwise than under—

- (a) section 88A as it applies by virtue of—
 - (i) section 80A (financial penalty for providing false or misleading information to Regulator), or
 - (ii) section 80B (financial penalty for providing false or misleading information to trustees or managers), or
- (b) Article 83A of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) as it applies by virtue of—
 - (i) Article 75A of that Order (financial penalty for providing false or misleading information to Regulator), or
 - (ii) Article 75B of that Order (financial penalty for providing false or misleading information to trustees or managers).”

(4) In subsection (4), in the definition of “information requirement”, after paragraph (c) insert—

“(ca) section 72A (requirement to attend interview etc);”.

Commencement Information

I16 Sch. 7 para. 11 in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(f)

12 (1) Section 316 (Parliamentary control of subordinate legislation) is amended as follows.

(2) In subsection (2) (regulations and orders subject to affirmative procedure), after paragraph (za) insert—

- “(zaa) regulations under section 38E(2)(a) (section 38 contribution notice: constitution of resources of employer);
- (zab) regulations under section 38E(2)(b) (section 38 contribution notice: valuation of resources of employer);”.

(3) In subsection (2), after paragraph (zb) insert—

- “(zc) regulations under section 58A(1) (offence of avoidance of employer debt: power to except certain schemes);
- (zd) regulations under section 58B(1) (offence of conduct risking accrued scheme benefits: power to except certain schemes);
- (ze) regulations under section 58C(1) (financial penalty for avoidance of employer debt: power to except certain schemes);
- (zf) regulations under section 58D(1) (financial penalty for conduct risking accrued scheme benefits: power to except certain schemes);
- (zg) regulations under section 73(5B)(a) (inspection of premises: power to specify provisions by reference to which there may be inspection);
- (zh) regulations under section 88A(3) (financial penalties: power to amend maximum amount of penalty);”.

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I17 Sch. 7 para. 12(1) in force at 25.6.2021 for specified purposes by S.I. 2021/752, reg. 2(a)

I18 Sch. 7 para. 12(1)(3) in force at 1.10.2021 by S.I. 2021/950, reg. 2(4)(f)

I19 Sch. 7 para. 12(2) in force at 25.6.2021 by S.I. 2021/752, reg. 2(b)

- 13 (1) In Schedule 1 (the Pensions Regulator), in Part 4 (proceedings and delegation etc), paragraph 21(2) is amended as follows.
- (2) After paragraph (d) insert—
- “(da) the power to issue a notice under section 72A;
 - (db) the power to issue a fixed penalty notice under section 77A;
 - (dc) the power to issue an escalating penalty notice under section 77B;
 - (dd) the power to require payment of a penalty under section 88A;”.
- (3) After paragraph (o) insert—
- “(p) the power to issue a fixed penalty notice under section 17 of the Pension Schemes Act 2017;
 - (q) the power to issue an escalating penalty notice under section 18 of that Act.”

Commencement Information

I20 Sch. 7 para. 13 in force at 29.6.2022 by S.I. 2022/721, reg. 2(d)

- 14 In Schedule 2 (the reserved regulatory functions), after paragraph 41 insert—
- “41A The power to require a person to pay a penalty under section 88A.”

Commencement Information

I21 Sch. 7 para. 14 in force at 29.6.2022 by S.I. 2022/721, reg. 2(d)

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