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STATUTORY INSTRUMENTS

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**2021 No. 950**

**The Pension Schemes Act 2021 (Commencement No. 3  
and Transitional and Saving Provisions) Regulations 2021**

**PART 3**

Transitional and saving provisions

**Transitional provision in respect of the Regulator's powers to impose contribution notices and sanctions for avoidance of employer debt and financial penalties**

3.—(1) Paragraphs (2) to (5) apply where—

- (a) an act, failure to act or course of conduct occurred before 1st October 2021;
- (b) in the case of acts, failures to act or courses of conduct which form part of a series, any series where the first act, failure to act or instance of course of conduct occurred before 1st October 2021; or
- (c) in the case of a continuing failure, the failure first occurred before 1st October 2021.

(2) Sections 38 (contribution notices where avoidance of employer debt), 39 (the sum specified in a section 38 contribution notice), 40 (content and effect of a section 38 contribution notice) and 41 (section 38 contribution notice: relationship with employer debt) of the 2004 Act<sup>(1)</sup> continue to apply as if the amendments made by sections 103 to 106 of the Act have not been brought into force.

(3) The amendments made by section 106(4) and (5) do not apply.

(4) The amendments made by section 107 of the Act do not apply.

(5) The amendments made by section 115 of the Act do not apply, but where a penalty notice is issued under section 88A of the 2004 Act<sup>(2)</sup> (financial penalties) after 1st October 2021, section 88B of the 2004 Act<sup>(3)</sup> (financial penalties: time for recovery) applies to contribution notices issued under section 38 of the 2004 Act before 1st October 2021.

**Transitional provision in respect of the duty to notify the Regulator of certain events**

4. Where a duty to notify the Regulator of any notifiable event under section 69 of the 2004 Act<sup>(4)</sup> (duty to notify the Regulator of certain events) arises before 1st October 2021, sections 69 and 80<sup>(5)</sup> of the 2004 Act (offences of providing false or misleading information) continue to apply as if the amendments made by section 108 of the Act have not been brought into force.

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(1) Sections 38 to 41 of the Pensions Act 2004 are amended by sections 103 to 106 of the Pension Schemes Act 2021. There are other amendments made by other legislation but none is relevant.

(2) Section 88A of the Pensions Act 2004 is inserted by section 115 of the Pension Schemes Act 2021.

(3) Section 88B of the Pensions Act 2004 is inserted by section 115 of the Pension Schemes Act 2021.

(4) Section 69 of the Pensions Act 2004 is amended by section 108 of the Pension Schemes Act 2021.

(5) Section 80 of the Pensions Act 2004 is amended by sections 108 and 116 of, and Schedule 7, to the Pension Schemes Act 2021.

### **Transitional provision in respect of the Regulator’s power to impose fixed and escalating penalty notices**

5. The amendments made by section 112 of the Act do not apply in relation to—
- (a) a duty to comply with—
    - (i) a notice issued under section 72 of the 2004 Act~~(6)~~ (provision of information); or
    - (ii) a requirement under section 75 of the 2004 Act~~(7)~~ (inspection of premises: powers of inspectors),arising before 1st October 2021; or
  - (b) any act occurring before 1st October 2021 which prevented or hindered an inspector exercising any power under section 73 (inspection of premises), section 74~~(8)~~ (inspection of premises in respect of employers’ obligations) or section 75 of the 2004 Act.

### **Transitional provision in respect of provision of false or misleading information to the Regulator**

6. The amendments made by section 113 of the Act do not apply so far as they relate to information provided to the Regulator under the circumstances mentioned at section 80A(2)(a), (b) or (c) of the 2004 Act (financial penalty for providing false or misleading information to Regulator) before 1st October 2021.

### **Transitional provision in respect of provision of false or misleading information to trustees or managers**

7. The amendments made by section 114 of the Act do not apply so far as they relate to information provided to a trustee or manager of a scheme under the circumstances mentioned at section 80B(3)(a) or (b) of the 2004 Act~~(9)~~ (financial penalty for providing false or misleading information to trustees or managers) before 1st October 2021.

### **Saving provision in respect of the duty to notify the Regulator of certain events before 1st October 2021**

8. Section 69 of the 2004 Act continues to have effect as if the amendments made by section 108(2) of the Act have not been brought into force, so far as it relates to any duty to notify the Regulator arising before 1st October 2021.

### **Saving provision in respect of interview notices issued before 1st October 2021**

9. Section 72(1A) and (1B) of the 2004 Act continues to have effect, as if the amendments made by section 110(2) and (3) of the Act have not been brought into force where—
- (a) a notice has been issued under section 72(1A) of the 2004 Act before 1st October 2021; and
  - (b) the duty imposed on the recipient of such a notice has yet to be discharged.

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(6) Section 72(1A) and (1B) of the Pensions Act 2004 is omitted by section 110 of the Pension Schemes Act 2021. There are other amendments made by other legislation but none is relevant.

(7) Section 75 of the Pensions Act 2004 is amended by section 116 of, and Schedule 7 to, the Pension Schemes Act 2021. There are other amendments made by other legislation but none is relevant.

(8) Section 74 of the Pensions Act 2004 is amended by section 61 of the Pensions Act 2008 (c. 30).

(9) Section 80B of the Pensions Act 2004 is inserted by section 114 of the Pension Schemes Act 2021.

**Saving provision in respect of the definition of “administration charge”**

**10.**—(1) Subject to paragraph (2), the meaning given to “administration charge” in section 39 of the Pension Schemes Act 2017(**10**) (interpretation of Part 1) has effect as if the amendments made by section 127(2) of the Act have not been brought into force.

(2) The saving in paragraph (1) ceases to have effect on 5th April 2022.