



Pensions Act 2008

2008 CHAPTER 30

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 2

COMPLIANCE

Compliance notices and unpaid contributions notices

38 Calculation and payment of contributions

- (1) This section applies to—
 - (a) a compliance notice issued to an employer in respect of a contravention of section 2(1) or a failure to comply with an enrolment duty;
 - (b) an unpaid contributions notice.
- (2) The notice may, in particular, include—
 - (a) a requirement to calculate the amount of relevant contributions that are of a description specified in the notice (“unpaid relevant contributions”);
 - (b) if the contributions are being paid within the prescribed period after the appropriate date, a requirement to pay an amount equal to the amount of unpaid relevant contributions within section 39(2)(a);
 - (c) if the contributions are not being paid within the prescribed period after the appropriate date, a requirement to pay (on the employer's own account) an amount equal to the amount of unpaid relevant contributions;
 - (d) if paragraph (b) applies, a requirement to ensure—
 - (i) that the worker is not required to pay an amount equal to the balance of the unpaid relevant contributions during the prescribed period, and
 - (ii) that, if the worker chooses to pay that amount, it may be paid in instalments;

Changes to legislation: *Pensions Act 2008, Section 38 is up to date with all changes known to be in force on or before 14 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (e) if the contributions are payable to a money purchase scheme, a hybrid scheme or a personal pension scheme, a requirement to pay interest on the amount required by the notice to be paid in respect of unpaid relevant contributions, at a rate and in respect of a period determined in accordance with regulations.
- (3) The Secretary of State may by regulations make provision about the way in which the Regulator may (without prejudice to subsection (2)(a)) estimate the amount of contributions that an employer has failed to pay on behalf or in respect of a worker.
- (4) Regulations under subsection (3) may include, in particular, provision about the sources of information that the Regulator may use in estimating that amount, other than information provided by the employer.
- (5) In this section, “appropriate date” means—
 - (a) in the case of a compliance notice, such date as may be specified in the notice;
 - (b) in the case of an unpaid contributions notice, the due date within the meaning of section 37(3).
- (6) In this section, “employer” in relation to a worker means the person by whom the worker is or, if the employment has ceased, was employed.

Commencement Information

- II** S. 38 wholly in force at 30.6.2012; s. 38 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 38 in force so far as not already in force at 30.6.2012 by [S.I. 2012/1682](#), [art. 2\(1\)\(2\)\(a\)](#), [Sch. 1](#)

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Changes and effects yet to be applied to :

- s. 38(2)(e) words substituted by [2015 c. 8 Sch. 2 para. 49](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(1A) inserted by [2023 c. 44 s. 1\(2\)](#)
- s. 5(1C) inserted by [2023 c. 44 s. 1\(3\)](#)
- s. 13(3)(ec) inserted by [2023 c. 20 Sch. para. 56](#)
- s. 13A inserted by [2023 c. 44 s. 1\(4\)](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)
- s. 143(6)(7) inserted by [2023 c. 44 s. 1\(5\)\(b\)](#)