

2021 No. 243

PENSIONS

**The Pensions Regulator
(Information Gathering Powers and Modification)
Regulations (Northern Ireland) 2021**

Made - - - - *3rd September 2021*

Coming into operation - *1st October 2021*

The Department for Communities(a) makes the following Regulations in exercise of the powers conferred by Articles 67A(2), 72A(3)(a), 72B(5)(a) and 280(1)(b) of the Pensions (Northern Ireland) Order 2005(b).

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Pensions Regulator (Information Gathering Powers and Modification) Regulations (Northern Ireland) 2021 and shall come into operation on 1st October 2021.

Interpretation

2. In these Regulations any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 2005 bearing that number.

PART 2

INTERVIEWS

Interview notice

3.—(1) A notice issued by the Regulator under Article 67A(1) (interviews) (“the interview notice”) must contain the following information—

- (a) the details of the person required to attend the interview with the Regulator (“the interviewee”);

(a) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(b) S.I. 2005/255 (N.I. 1); Article 67A was inserted by paragraph 9(1) of Schedule 8 to the Pension Schemes Act 2021 (c. 1); Articles 72A and 72B were inserted by paragraph 11 of that Schedule

- (b) the power under which the interview is being conducted;
- (c) the functions of the Regulator engaged;
- (d) an explanation as to why the interview is being conducted;
- (e) details of how the interview process will be conducted;
- (f) the interviewee’s right to be represented at the interview;
- (g) an explanation that any statements made by the interviewee during the interview will be subject to Article 282(a) (admissibility of statements);
- (h) the legal effect of the interview notice and the possible sanctions for non-compliance;
- (i) the process for rearranging the time or place of the interview.

(2) Where an interview is being conducted virtually via an online communication platform, the interview notice must also contain details for accessing the online communication platform.

PART 3

MODIFICATION

Modification of Article 68(6)(d) to (f): multi-employer schemes

4.—(1) In this regulation, “segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section, and
- (b) a specified portion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

(2) In relation to a multi-employer scheme which is a segregated scheme, references to the employer in Article 68(6)(d) to (f)(b) (inspection of premises) are to be read as references to any employer in relation to the relevant section of the scheme.

(3) In relation to a multi-employer scheme which is not a segregated scheme, references to the employer in Article 68(6)(d) to (f) are to be read as references to any employer in relation to the scheme.

PART 4

PENALTIES

Fixed penalties

5. For the purposes of Article 72A(3)(a) (fixed penalty notices), the amount of the penalty is £400.

Escalating penalties

6.—(1) For the purposes of Article 72B(5)(a) (escalating penalty notices), the daily rate of the penalty is—

- (a) in the case of a penalty notice issued to an individual, £200;

(a) Article 282 was amended by paragraph 21 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4 (N.I.)) and is amended by paragraph 25 of Schedule 8 to the Pension Schemes Act 2021
 (b) Sub-paragraphs (d) to (f) are inserted by paragraph 10(5)(b) of Schedule 8 to the Pension Schemes Act 2021

- (b) in the case of a penalty notice issued to a person other than an individual, the amount shown in the second column of the table in paragraph (2) in relation to the day in the first column of that table.

(2) The table is—

<i>Day</i>	<i>Daily rate</i>
<i>1</i>	£500
<i>2</i>	£1,000
<i>3</i>	£1,500
<i>4</i>	£2,000
<i>5</i>	£2,500
<i>6</i>	£3,000
<i>7</i>	£3,500
<i>8</i>	£4,000
<i>9</i>	£4,500
<i>10</i>	£5,000
<i>11</i>	£5,500
<i>12</i>	£6,000
<i>13</i>	£6,500
<i>14</i>	£7,000
<i>15</i>	£7,500
<i>16</i>	£8,000
<i>17</i>	£8,500
<i>18</i>	£9,000
<i>19</i>	£9,500
<i>20</i>	£10,000
<i>Each subsequent day</i>	£10,000

where Day 1 is the day specified in the escalating penalty notice, in accordance with Article 72B(6)(d), as being the date from which the penalty is payable, and subsequent days are numbered accordingly.

Sealed with the Official Seal of the Department for Communities on 3rd September 2021

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the Pensions Regulator’s information gathering powers and provide details of the new civil penalty for non-compliance with the Pensions Regulator’s information gathering powers.

Regulation 3 sets out the information that must be contained in an interview notice issued under Article 67A(1) (interviews) of the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”).

Regulation 4 modifies how the Pensions Regulator’s inspection powers under Article 68(6)(d) to (f) (inspection of premises) of the 2005 Order would apply for multi-employer occupational pension schemes.

Regulations 5 and 6 set out the rate of a fixed penalty notice and the daily rate of an escalating penalty notice which may be issued by the Pensions Regulator under Articles 72A (fixed penalty notices) and 72B (escalating penalty notices) of the 2005 Order for non-compliance with the Pensions Regulator’s information gathering powers under Article 67 (provision of information), 67A (interviews), 68 (inspection of premises), 69 (inspection of premises in respect of employers’ obligations) or 70 (inspection of premises: powers of inspectors) of the 2005 Order.

The Pension Schemes Act 2021 (Commencement No. 1) Order (Northern Ireland) 2021 (S.R. 2021 No. 240 (C. 8)) provides for the coming into operation of paragraphs 9(1) and 11 of Schedule 8 to the Pension Schemes Act 2021, which insert Articles 67A, 72A and 72B into the 2005 Order, some of the enabling provisions under which these Regulations are made, for the purpose only of authorising the making of regulations, on 1st September 2021.

As these Regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 289(1) of the 2005 Order does not apply by virtue of paragraph (2)(e) of that Article.

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