

2021 No. 754

PENSIONS

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

<i>Made</i>	- - - -	<i>23rd June 2021</i>
<i>Laid before Parliament</i>		<i>28th June 2021</i>
<i>Coming into force</i>	- -	<i>1st October 2021</i>

The Secretary of State for Work and Pensions makes the following Regulations^(a) in exercise of the powers conferred by sections 72A(2), 77A(3)(a), 77B(5)(a), 307(1)(b) and 315(2) of the Pensions Act 2004^(b).

In accordance with section 317(1) of the Pensions Act 2004, the Secretary of State has consulted such persons as she considers appropriate.

PART 1

PRELIMINARY

Citation and commencement

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

Interpretation

2. In these Regulations, “the Act” means the Pensions Act 2004.

PART 2

INTERVIEWS

Interview notice

3.—(1) A notice issued by the Regulator under section 72A(1) of the Act (interviews) (“interview notice”) must contain the following information—

(a) See section 318 of the Pensions Act 2004 (c. 35) for the definitions of “prescribed” and “regulations”.
(b) 2004 c.35. Sections 72A, 77A and 77B of the Pensions Act 2004 were inserted by sections 110 and 112 of the Pension Schemes Act 2021 (c. 1).

- (a) the details of the person required to attend the interview with the Regulator (“the interviewee”);
- (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 section 310 of the Act (admissibility of statements)(a);
- (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 section 73(6)(d) to (f) of the Act: 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 section 73(6)(d) to (f) of the Act(b) 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 section 73(6)(d) to (f) of the Act are to be read as references to any employer in relation to the scheme.

PART 4

PENALTIES

Fixed penalties

5. For the purposes of section 77A(3)(a) of the Act (fixed penalty notices), the amount of the penalty is £400.

Escalating penalties

6.—(1) For the purposes of section 77B(5)(a) of the Act (escalating penalty notices), the daily rate of the penalty is—

(a) Section 310 of the Pensions Act 2004 was amended by section 116 of and paragraphs 2 and 11 of Schedule 7 to the Pension Schemes Act 2021 and S.I. 2010/22.

(b) Section 73(6)(d) to (f) of the Pensions Act 2004 was inserted by section 111(5) of the Pension Schemes Act 2021.

- (a) in the case of a penalty notice issued to an individual, £200;
- (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>
1	£500
2	£1,000
3	£1,500
4	£2,000
5	£2,500
6	£3,000
7	£3,500
8	£4,000
9	£4,500
10	£5,000
11	£5,500
12	£6,000
13	£6,500
14	£7,000
15	£7,500
16	£8,000
17	£8,500
18	£9,000
19	£9,500
20	£10,000
<i>Each subsequent day</i>	£10,000

where Day 1 is the day specified in the escalating penalty notice, in accordance with section 77B(6)(d) of the Act, as being the date from which the penalty is payable, and subsequent days are numbered accordingly.

Signed by authority of the Secretary of State for Work and Pensions

23rd June 2021

Mims Davies
Parliamentary Under Secretary of State
Department for Work and Pensions

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 section 72A(1) (interviews) of the Pensions Act 2004.

Regulation 4 modifies how the Pensions Regulator’s inspection powers under section 73(6)(d) to (f) (inspection of premises) of the Pensions Act 2004 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 sections 77A (fixed penalty notice) and 77B (escalating penalty notice) of the Pensions Act 2004 for non-compliance with the Pensions Regulator's information gathering powers under section 72 (provision of information), 72A (interviews), 73 (inspection of premises), 74 (inspection of premises in respect of employer's obligations) or 75 (inspection of premises: powers of inspectors) of the Pensions Act 2004.

An impact assessment has been carried out as part of the enactment of the measures in the Pension Schemes Act 2021 and has been published alongside the Pension Schemes Act 2021 at www.legislation.gov.uk. Paper copies can be obtained from the Department for Work and Pensions, First Floor, Caxton House, Tothill Street, London SW1H 9NA.

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