



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Winding up

77 Excess assets remaining after winding up: power to distribute

- (1) This section applies to a trust scheme in any circumstances if—
 - (a) it is an exempt approved scheme, within the meaning given by section 592(1) of the Taxes Act 1988,
 - (b) the scheme is being wound up,
 - (c) the liabilities of the scheme have been fully discharged,
 - (d) where there is any power under the scheme, after the discharge of those liabilities, to distribute assets to any person other than the employer, the power has been exercised or a decision has been made not to exercise it,
 - (e) any assets remain undistributed, and
 - (f) the scheme prohibits the distribution of assets to the employer in those circumstances.
- (2) The annual rates of the pensions under the scheme which commence or have commenced must be increased by the appropriate percentage, so far as the value of the undistributed assets allows.
- (3) In subsection (2)—
 - (a) “annual rate” and “appropriate percentage” have the same meaning as in section 54, and
 - (b) “pension” does not include—
 - (i) any guaranteed minimum pension (as defined in section 8(2) of the Pension Schemes Act 1993) or any increase in such a pension under section 109 of that Act, or
 - (ii) any money purchase benefit (as defined in section 181(1) of that Act).

Status: This is the original version (as it was originally enacted).

- (4) Where any assets remain undistributed after the discharge of the trustees' duty under subsection (2)—
 - (a) the trustees must use those assets for the purpose of providing additional benefits or increasing the value of any benefits, but subject to prescribed limits, and
 - (b) the trustees may then distribute those assets (so far as undistributed) to the employer.
- (5) If, where this section applies to a trust scheme, the requirements of this section are not complied with, section 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance.
- (6) Regulations may modify this section as it applies in prescribed circumstances.