



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 2

#### THE BOARD OF THE PENSION PROTECTION FUND

### CHAPTER 2

#### INFORMATION RELATING TO EMPLOYER'S INSOLVENCY ETC

#### *Board's duties*

#### **124 Board's duty where there is a failure to comply with section 122**

- (1) This section applies where in relation to an occupational pension scheme—
  - (a) the Board determines under section 123 not to approve a notice issued under section 122 by an insolvency practitioner or former insolvency practitioner in relation to the employer, or
  - (b) an insolvency practitioner or former insolvency practitioner in relation to the employer fails to issue a notice under section 122 and the Board is satisfied that such a notice ought to have been issued under that section.
- (2) The obligations on the insolvency practitioner or former insolvency practitioner imposed by subsections (2) and (4) of section 122 are to be treated as obligations imposed on the Board and the Board must accordingly issue a notice as required under that section.
- (3) Subject to subsections (4) and (5), where a notice is issued under section 122 by the Board by virtue of this section, it has effect as if it were a notice issued under section 122 by an insolvency practitioner or, as the case may be, former insolvency practitioner in relation to the employer.

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**Changes to legislation:** *Pensions Act 2004, Cross Heading: Board’s duties is up to date with all changes known to be in force on or before 21 April 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*

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- (4) Where a notice is issued under section 122 by virtue of this section, section 122(6) does not apply and the Board must, as soon as reasonably practicable, give a copy of the notice to—
- (a) the Regulator,
  - (b) the trustees or managers of the scheme,
  - (c) the insolvency practitioner or former insolvency practitioner mentioned in subsection (1),
  - (d) any insolvency practitioner in relation to the employer (who does not fall within paragraph (c)), and
  - (e) if there is no insolvency practitioner in relation to the employer, the employer.
- (5) Where the Board—
- (a) is required to issue a notice under section 122 by virtue of this section, and
  - (b) is satisfied that the notice ought to have been issued at an earlier time,
- it must specify that time in the notice and the notice is to have effect as if it had been issued at that time.

**Modifications etc. (not altering text)**

- C1** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/277\)](#), regs. 1(1), **2-11**
- C2** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1, **2-60**, 71, 72
- C3** S. 124 modified (6.4.2005) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1(1)(d), **61**, 62(4) and amendment to earlier affecting provision (1.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(2), **10(4)**

**Commencement Information**

- II** S. 124 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

**125 Binding notices confirming status of scheme**

- (1) Subject to subsection (2), for the purposes of this Part, a notice issued under section 122 is not binding until—
- (a) the Board issues a determination notice under section 123 approving the notice,
  - (b) the period within which the issue of the determination notice under that section may be reviewed by virtue of Chapter 6 has expired, and
  - (c) if the issue of the determination notice is so reviewed—
    - (i) the review and any reconsideration,
    - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
    - (iii) any appeal against his determination or directions,
 has been finally disposed of and the determination notice has not been revoked, varied or substituted.

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- (2) Where a notice is issued under section 122 by the Board by virtue of section 124, the notice is not binding until—
- (a) the period within which the issue of the notice may be reviewed by virtue of Chapter 6 has expired, and
  - (b) if the issue of the notice is so reviewed—
    - (i) the review and any reconsideration,
    - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
    - (iii) any appeal against his determination or directions,has been finally disposed of and the notice has not been revoked, varied or substituted.
- (3) Where a notice issued under section 122 becomes binding, the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding notice to—
- (a) the Regulator,
  - (b) the trustees or managers of the scheme,
  - (c) the insolvency practitioner or former insolvency practitioner who issued the notice under section 122 or, where that notice was issued by the Board by virtue of section 124, the insolvency practitioner or former insolvency practitioner mentioned in subsection (1) of that section,
  - (d) any insolvency practitioner in relation to the employer (who does not fall within paragraph (c)), and
  - (e) if there is no insolvency practitioner in relation to the employer, the employer.
- (4) A notice under subsection (3)—
- (a) must be in the prescribed form and contain such information as may be prescribed, and
  - (b) where it is given in relation to a withdrawal notice issued under section 122(2) (b) which has become binding, must state the time from which the Board ceases to be involved with the scheme (see section 149).

**Modifications etc. (not altering text)**

- C4** S. 125 modified (6.4.2005) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1(1)(d), **61**, 62(5) and amendment to earlier affecting provision (1.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(2), **10(4)**

**Commencement Information**

- I2** S. 125(1)-(3)(4)(b) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I3** S. 125(4)(a) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

**Changes to legislation:**

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**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. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))