



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Reconsideration of closed schemes

158 Duty to assume responsibility for closed schemes

- (1) Where the trustees or managers of a closed scheme—
 - (a) make an application under subsection (1) of section 157, or
 - (b) receive a notice from the Board under subsection (4) of that section,the Board must assume responsibility for the scheme in accordance with this Chapter if the value of the assets of the scheme at the relevant time was less than the amount of the protected liabilities at that time.
- (2) In subsection (1) the reference to the assets of the scheme is a reference to those assets excluding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules.
- [^{F1}(3) The Board must, as soon as reasonably practicable—
 - (a) determine whether the condition in subsection (1) is satisfied, or
 - (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of section 143) of the scheme as at the relevant time.
- (3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under subsection (3)(a) or obtain an actuarial valuation under subsection (3)(b).]

Changes to legislation: *Pensions Act 2004, Section 158 is up to date with all changes known to be in force on or before 18 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*

- (4) Subject to subsection (6), subsection (3) of section 143 applies for [^{F2}the purposes of this section as it applies for the purposes] of that section (and the definitions contained in paragraphs (b) and (d) of subsection (11) of that section apply accordingly).
- (5) Subject to subsection (6), the following provisions apply in relation to [^{F3}a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b)] as they apply in relation to [^{F4}a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b)] —
- (a) subsections (4) to (7) and (11)(b) and (d) of that section;
 - [^{F5}(aa) section 143A (determinations under section 143), other than subsections (1)(c) and (4)(c) (duty to give copy of determinations to employer's insolvency practitioner);]
 - (b) section 144 (approval of valuation), other than subsection (2)(b)(iii) (duty to give copy of approved valuation to employer's insolvency practitioner);
 - (c) section 145 (binding valuations), other than subsection (3)(c) (duty to give copy of binding valuation to employer's insolvency practitioner).
- (6) In the application of sections 143 [^{F6}, 143A] and 145 by virtue of subsection (4) or (5)—
- (a) [^{F7}subsections (3), (5), (5A), (5B) and (11)(b) and (c) of section 143] apply as if the references to “the relevant time” were references to that term as defined in subsection (8) below, ^{F8}...
 - [^{F9}(aa) subsection (3) of section 143A applies as if the reference to section 128(2)(a) included a reference to subsection (1) of this section, and]
 - (b) subsection (2) of section 145 applies as if the reference to section 128(2)(a) included a reference to subsection (1) of this section.
- (7) An application under subsection (1) of section 157, or notification under subsection (4) of that section, is to be disregarded for the purposes of subsection (1) if it is made or given during an assessment period (see sections 132 and 159) in relation to the scheme which began before the application was made or notification was given.
- (8) In this section—
- “closed scheme” has the same meaning as in section 155;
 - “the relevant time” means the time immediately before the application mentioned in subsection (1)(a) was made, or (as the case may be) the notice mentioned in subsection (1)(b) was received, by the trustees or managers of the scheme.

Textual Amendments

- F1** S. 158(3)(3A) substituted for s. 158(3) (23.7.2012) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 11(2)**; [S.I. 2012/1681](#), art. 3(b)(ii)
- F2** Words in s. 158(4) substituted (23.7.2012) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 11(3)**; [S.I. 2012/1681](#), art. 3(b)(ii)
- F3** Words in s. 158(5) substituted (23.7.2012) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 11(4)(a)**; [S.I. 2012/1681](#), art. 3(b)(ii)
- F4** Words in s. 158(5) substituted (23.7.2012) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 11(4)(b)**; [S.I. 2012/1681](#), art. 3(b)(ii)
- F5** S. 158(5)(aa) inserted (23.7.2012) by [Pensions Act 2011 \(c. 19\)](#), s. 38(4), **Sch. 4 para. 11(4)(c)**; [S.I. 2012/1681](#), art. 3(b)(ii)

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- F6** Word in s. 158(6) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 11(5)(a)**; S.I. 2012/1681, art. 3(b)(ii)
- F7** Words in s. 158(6)(a) substituted (6.4.2005) by The Occupational Pension Schemes (Modification of Pension Protection Provisions) Regulations 2005 (S.I. 2005/705), regs. 1(2), **2(4)**
- F8** Word in s. 158(6)(a) omitted (23.7.2012) by virtue of Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 11(5)(b)**; S.I. 2012/1681, art. 3(b)(ii)
- F9** S. 158(6)(aa) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 11(5)(c)**; S.I. 2012/1681, art. 3(b)(ii)

Commencement Information

- I1** S. 158 in force at 6.4.2007 by S.I. 2006/2272, art. 2(7), **Sch. Pt. 2**

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))