



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 2

#### THE BOARD OF THE PENSION PROTECTION FUND

### CHAPTER 3

#### PENSION PROTECTION

##### *Assumption of responsibility for a scheme*

#### **163 Adjustments to be made where the Board assumes responsibility for a scheme**

- (1) This section applies where the Board assumes responsibility for an eligible scheme in accordance with this Chapter.
- (2) Any benefits (other than money purchase benefits) which—
  - (a) were payable under the scheme rules to any member, or to any person in respect of any member, during the period beginning with the assessment date and ending with the receipt by the trustees or managers of the transfer notice, and
  - (b) have been paid before the trustees or managers receive the transfer notice, are to be regarded as going towards discharging any liability of the Board to pay compensation to the member or, as the case may be, person in accordance with the pension compensation provisions.
- (3) Regulations may provide that, in prescribed circumstances, where—
  - (a) a member of the scheme died before the commencement of the assessment period, and
  - (b) during the period mentioned in subsection (2)(a), a person became entitled under the scheme rules to a benefit of a prescribed description in respect of the member,

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*Changes to legislation: Pensions Act 2004, Section 163 is up to date with all changes known to be in force on or before 11 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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the benefit, or any part of it, is, for the purposes of subsection (2), to be treated as having become payable before the assessment date.

(4) The Board must—

- (a) if any amount paid, during the period mentioned in subsection (2)(a), by the trustees or managers of the scheme to a member, or to a person in respect of a member, exceeded the entitlement of that member or person under the pension compensation provisions, take such steps as it considers appropriate (including adjusting future compensation payments made in accordance with those provisions) to recover an amount equal to the aggregate of—
  - (i) the amount of the excess, and
  - (ii) interest on that amount, at the prescribed rate, for the period which begins when the excess was paid by the trustees or managers and ends with the recovery of the excess, and
- (b) if any amount so paid was less than that entitlement (or no amount was paid in respect of that entitlement), pay an amount to the member or person concerned equal to the aggregate of—
  - (i) the amount of the shortfall, and
  - (ii) interest on that amount, at the prescribed rate, for the period which begins when the shortfall ought to have been paid by the trustees or managers and ends with the payment of the shortfall by the Board.

(5) In subsection (4) references to an amount paid do not include—

- (a) an amount paid in respect of any money purchase benefit, or
- (b) any other amount of a prescribed description.

(6) Nothing in subsection (4) requires the Board—

- (a) to recover any amount from a person in such circumstances as may be prescribed, or
- (b) to recover from any person any amount which it considers to be trivial.

(7) In this section “assessment date” is to be construed in accordance with Schedule 7.

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**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** Pt. 2 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**

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**Commencement Information**

- I1** S. 163(1)-(4)(5)(a)(6)(7) in force at 1.1.2006 for specified purposes and 6.4.2006 in so far as not already in force by [S.I. 2005/3331](#), art. 2(5), **Sch. Pt. 5**

**Changes to legislation:**

Pensions Act 2004, Section 163 is up to date with all changes known to be in force on or before 11 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.

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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))