



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 1

#### THE PENSIONS REGULATOR

##### *Powers in relation to winding up of occupational pension schemes*

#### **24 Consequences of freezing order**

- (1) If a freezing order is made in relation to a scheme any action taken in contravention of the order is void except to the extent that the action is validated by an order under section 26.
- (2) A freezing order in relation to a scheme does not prevent any increase in a benefit which is an increase which would otherwise accrue in accordance with the scheme or any enactment during the period for which the order has effect, unless the order contains a direction to the contrary.
- (3) A freezing order in relation to a scheme does not prevent the scheme being wound up in pursuance of an order under section 11 of the Pensions Act 1995 (power to wind up occupational pension schemes).
- (4) If a freezing order contains a direction under section 23(4)(b) that no further contributions, or no further specified contributions, are to be paid towards a scheme during the period for which the order has effect—
  - (a) any contributions which are the subject of the direction and which would otherwise be due to be paid towards the scheme during that period are to be treated as if they do not fall due, and
  - (b) any obligation to pay those contributions (including any obligation under section 49(8) of the Pensions Act 1995 to pay amounts deducted corresponding to such contributions) is to be treated as if it does not arise.
- (5) If a freezing order contains a direction under section 23(4)(f) (no transfers or discharge of member's rights) it does not prevent—

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- (a) giving effect to a pension sharing order or provision, or
  - (b) giving effect to a pension earmarking order in a case where—
    - (i) the order requires a payment to be made if a payment in respect of any benefits under the scheme becomes due to a person, and
    - (ii) a direction under section 23(4)(d) or (e) does not prevent the payment becoming due.
- (6) For the purposes of subsection (5)—
- “pension sharing order or provision” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (c. 30) (activation of pension sharing);
- “pension earmarking order” means—
- (a) an order under section 23 of the Matrimonial Causes Act 1973 (c. 18) (financial provision orders in connection with divorce etc) so far as it includes provision made by virtue of section 25B or 25C of that Act (powers to include provision about pensions),
  - (aa) [<sup>F1</sup>an order under Part 1 (financial provision in connection with dissolution, nullity or separation) of Schedule 5 to the Civil Partnership Act 2004 (c. 33) (financial relief in the High Court or a county court etc.) so far as it includes provision made by virtue of paragraphs 25 and 26 of Part 6 of that Schedule (powers to include provisions about pensions),]
  - (b) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (c. 37) (powers in relation to pension lump sums when making a capital sum order), <sup>F2</sup>...
  - (c) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I.15)) so far as it includes provision made by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to those mentioned in paragraph (a)) [<sup>F3</sup>, or
  - (d) an order under Part 1 (financial provision in connection with dissolution, nullity or separation) of Schedule 15 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.: Northern Ireland) so far as it includes provision made by virtue of paragraphs 20 and 21 of Part 5 of that Schedule (powers to include provisions about pensions)]
- (7) Regulations may modify any provisions of—
- [<sup>F4</sup>(a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or
  - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),]
- in their application to an occupational pension scheme in relation to which a freezing order is made containing a direction under section 23(4)(f), (g) or (h) (no transfers etc in respect of member’s rights or refunds of contributions etc from the scheme).
- (8) Disregarding subsection (1), if a freezing order made in relation to a scheme is not complied with, section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any trustee or manager of the scheme who has failed to take all reasonable steps to secure compliance.
- (9) Subsection (8) does not apply in the case of non-compliance with a direction under section 23(4)(c) (direction that certain deducted contributions are to be repaid by the employer).

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- (10) In such a case, section 10 of the Pensions Act 1995 (civil penalties) applies to an employer who, without reasonable excuse, fails to repay an amount as required by the direction.

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#### Textual Amendments

- F1** Words in s. 24(6) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 27(a)**
- F2** Word in s. 24(6) omitted (5.12.2005) by virtue of [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 27(b)**
- F3** Words in s. 24(6) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 27(c)**
- F4** [S. 24\(7\)\(a\)\(b\)](#) substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(3)(b), **Sch. 4 para. 37** (with s. 87)

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#### Commencement Information

- I1** [S. 24\(1\)-\(6\)\(7\)\(b\)\(8\)-\(10\)](#) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I2** [S. 24\(7\)\(a\)](#) 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\(i\)\(iv\)](#))