



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Financial support directions

43 Financial support directions

- (1) This section applies in relation to an occupational pension scheme other than—
 - (a) a money purchase scheme, or
 - (b) a prescribed scheme or a scheme of a prescribed description.
- (2) The Regulator may issue a financial support direction under this section in relation to such a scheme if the Regulator is of the opinion that the employer in relation to the scheme—
 - (a) is a service company, or
 - (b) is insufficiently resourced,at a time determined by the Regulator which falls within subsection (9) (“the relevant time”).
- (3) A financial support direction in relation to a scheme is a direction which requires the person or persons to whom it is issued to secure—
 - (a) that financial support for the scheme is put in place within the period specified in the direction,
 - (b) that thereafter that financial support or other financial support remains in place while the scheme is in existence, and
 - (c) that the Regulator is notified in writing of prescribed events in respect of the financial support as soon as reasonably practicable after the event occurs.
- (4) A financial support direction in relation to a scheme may be issued to one or more persons.

Changes to legislation: Pensions Act 2004, Section 43 is up to date with all changes known to be in force on or before 14 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

- (5) But the Regulator may issue such a direction to a person only if—
- (a) the person is at the relevant time a person falling within subsection (6), and
 - (b) the Regulator is of the opinion that it is reasonable to impose the requirements of the direction on that person.
- (6) A person falls within this subsection if the person is—
- (a) the employer in relation to the scheme,
 - (b) an individual who—
 - (i) is an associate of an individual who is the employer, but
 - (ii) is not an associate of that individual by reason only of being employed by him, or
 - (c) a person, other than an individual, who is connected with or an associate of the employer.
- (7) The Regulator, when deciding for the purposes of subsection (5)(b) whether it is reasonable to impose the requirements of a financial support direction on a particular person, must have regard to such matters as the Regulator considers relevant including, where relevant, the following matters—
- (a) the relationship which the person has or has had with the employer (including, where the employer is a company within the meaning of subsection (11) of section 435 of the Insolvency Act 1986 (c. 45), whether the person has or has had control of the employer within the meaning of subsection (10) of that section),
 - (b) in the case of a person falling within subsection (6)(b) or (c), the value of any benefits received directly or indirectly by that person from the employer,
 - (c) any connection or involvement which the person has or has had with the scheme,
 - (d) the financial circumstances of the person, and
 - (e) such other matters as may be prescribed.
- (8) A financial support direction must identify all the persons to whom the direction is issued.
- (9) A time falls within this subsection if it is a time which falls within a prescribed period which ends with the [^{F1}giving of a warning notice in respect of] the financial support direction in question.
- (10) For the purposes of subsection (3), a scheme is in existence until it is wound up.
- (11) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a notice given by virtue of subsection (3)(c).

This is subject to section 311 (protected items).

[^{F2}(12) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).]

Textual Amendments

F1 Words in s. 43(9) substituted (3.1.2012) by [Pensions Act 2011 \(c. 19\), ss. 26\(5\), 38\(4\); S.I. 2011/3034, art. 3\(f\)](#)

F2 S. 43(12) inserted (3.1.2012) by [Pensions Act 2011 \(c. 19\), ss. 26\(6\), 38\(4\); S.I. 2011/3034, art. 3\(f\)](#)

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Modifications etc. (not altering text)

- C1** Pt. 1 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**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, 16
- C3** S. 43 excluded (29.9.2008) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **Sch. 3 para. 11(b)(ii)**
- C4** S. 43 excluded (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **Sch. 3 para. 11(b)(ii)**
- C5** S. 43 modified (30.3.2009 at 8.00 a.m.) by [The Amendments to Law \(Resolution of Dunfermline Building Society\) Order 2009 \(S.I. 2009/814\)](#), **art. 5**
- C6** S. 43 modified (30.3.2009) by [The Amendments to Law \(Resolution of Dunfermline Building Society\) Order 2009 \(S.I. 2009/814\)](#), **art. 5**

Commencement Information

- I1** S. 43(1)(a)(2)(3)(a)(b)(4)-(6)(7)(a)-(d)(8)(10)(11) in force in so far as not already in force except subsection (7)(e) at 6.4.2005 by [S.I. 2005/275](#), **art. 2(7)**, **Sch. Pt. 7**
- I2** S. 43(1)(b)(3)(c)(9) 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 :

- s. 43(2) words substituted by [2015 c. 8 Sch. 2 para. 28\(3\)](#)

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))