



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 1

#### THE PENSIONS REGULATOR

##### *Transactions at an undervalue*

#### **53 Restoration orders: supplementary**

- (1) This section applies in relation to a restoration order under section 52 in respect of a transaction involving assets of a scheme (“the transaction”).
- (2) The restoration order may in particular—
  - (a) require any assets of the scheme (whether money or other property) which were transferred as part of the transaction to be transferred back—
    - (i) to the trustees or managers of the scheme, or
    - (ii) where the Board of the Pension Protection Fund has assumed responsibility for the scheme, to the Board;
  - (b) require any property to be transferred to the trustees or managers of the scheme or, where the Board has assumed responsibility for the scheme, to the Board if it represents in any person’s hands—
    - (i) any of the assets of the scheme which were transferred as part of the transaction, or
    - (ii) property derived from any such assets so transferred;
  - (c) require such property as the Regulator may specify in the order, in respect of any consideration for the transaction received by the trustees or managers of the scheme, to be transferred—
    - (i) by the trustees or managers of the scheme, or
    - (ii) where the Board has assumed responsibility for the scheme, by the Board,to such persons as the Regulator may specify in the order;

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**Changes to legislation:** Pensions Act 2004, Section 53 is up to date with all changes known to be in force on or before 16 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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- (d) require any person to pay, in respect of benefits received by him as a result of the transaction, such sums (not exceeding the value of the benefits received by him) as the Regulator may specify in the order—
- (i) to the trustees or managers of the scheme, or
  - (ii) where the Board has assumed responsibility for the scheme, to the Board.
- (3) A restoration order is of no effect to the extent that it prejudices any interest in property which was acquired in good faith and for value or any interest deriving from such an interest.
- (4) Nothing in subsection (3) prevents a restoration order requiring a person to pay a sum of money if the person received a benefit as a result of the transaction otherwise than in good faith and for value.
- (5) Where a person has acquired an interest in property from a person or has received a benefit as a result of the transaction and—
- (a) he is one of the trustees or managers or appropriate persons who entered into the transaction as mentioned in subsection (6) of section 52, or
  - (b) at the time of the acquisition or receipt—
    - (i) he has notice of the fact that the transaction was a transaction at an undervalue,
    - (ii) he is a trustee or manager, or the employer, in relation to the scheme, or
    - (iii) he is connected with, or an associate of, any of the persons mentioned in paragraph (a) or (b)(ii),
- then, unless the contrary is shown, it is to be presumed for the purposes of subsections (3) and (4) that the interest was acquired or the benefit was received otherwise than in good faith.
- (6) For the purposes of this section—
- (a) section 249 of the Insolvency Act 1986 (c. 45) (connected persons) applies as it applies for the purposes of any provision of the first Group of Parts of that Act,
  - (b) section 435 of that Act (associated persons) applies as it applies for the purposes of that Act, and
  - (c) section [F1229 of the Bankruptcy (Scotland) Act 2016] (associated persons) applies as it applies for the purposes of that Act.
- (7) For the purposes of this section “property” includes—
- (a) money, goods, things in action, land and every description of property wherever situated, and
  - (b) obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property.
- (8) References in this section to where the Board has assumed responsibility for a scheme are to where the Board has assumed responsibility for the scheme in accordance with Chapter 3 of Part 2 (pension protection).

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#### **Textual Amendments**

- F1** Words in s. 53(6)(c) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 26(4)**

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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

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#### **Commencement Information**

- I1** S. 53 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

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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))