

PENSIONS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 132: Intervention by Regulator where scheme's technical provisions improperly determined

444. Section 222(4)(c) of the PA 2004 requires trustees to follow prescribed principles when determining the actuarial methods and assumptions to be used in the calculation of a scheme's technical provisions. These are prescribed in regulation 5(4) of the [Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(SI 2005/3377\)](#). One of the principles is that the methods and assumptions must be chosen prudently by the trustees. The requirement for prudence implements obligations under the European occupational pensions directive (Directive [2003/41/EC](#)).
445. Section 222(4)(c) of the PA 2004 is not currently included in the circumstances, set out in section 231(1), in which the Pensions Regulator can exercise its powers (set out in section 231(2)) in respect of the scheme funding provisions. The Pensions Regulator cannot therefore make use of the powers in section 231(2) if the sole ground of concern is that the actuarial methods or assumptions used in the calculation of the technical provisions do not appear to have been chosen prudently.
446. The actuarial assumptions used in a valuation of a pension scheme are critical in establishing a scheme's correct funding position and, therefore, an appropriate level of contributions to the scheme. This section ensures that the Regulator can use the powers in section 231(2) (such as issuing directions on the scheme's actuarial calculations or imposing a schedule of contributions) where the sole ground of concern is that the actuarial methods or assumptions do not appear to be prudent.