



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

[^{F1}Supervision of winding-up

Textual Amendments

- F1** S. 72A and cross-heading inserted (1.3.2002 for specified purposes, 1.4.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 49(1), 86(1)(b)(2) (with s. 83(6)); S.I. 2002/437, art. 3(1)(b)-(d)(2)

72A Reports to Authority about winding-up.

- (1) Where—
- (a) an occupational pension scheme is being wound up, and
 - (b) the winding-up is one beginning at a time (whether before or after the passing of this Act) by reference to which regulations provide that it is to be a winding-up to which this section applies,
- it shall be the duty of the trustees or managers, in accordance with this section, to make periodic reports in writing to the Authority about the progress of the winding-up.
- (2) In the case of each winding-up, the first report to be made under this section shall be made—
- (a) except in a case to which paragraph (b) applies—
 - (i) after the end of the prescribed period beginning with the day on which the winding-up began; and
 - (ii) before the end of the prescribed period that begins with the end of the period that applies for the purposes of sub-paragraph (i);
- and

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- (b) in a case where the winding-up began before the coming into force of the regulations which (for the purposes of subsection (1)(b)) prescribe the time by reference to which the winding-up is one to which this section applies, before such date as may be prescribed by those regulations.
- (3) Subject to subsection (4), each subsequent report made under this section in the case of a winding-up shall be made no more than twelve months after the date which (apart from any postponement under subsection (4)) was the latest date for the making of the previous report required to be made in the case of that winding-up.
- (4) If, in the case of any report required to be made under subsection (3), the Authority consider (whether on an application made for the purpose or otherwise) that it would be appropriate to do so, they may, at any time before the latest time for the making of that report, postpone that latest time by such period as they think fit.
- (5) The latest time for making a report shall not be postponed under subsection (4) by more than twelve months.
- (6) Subject to the application of the limit specified in subsection (5) to the cumulative period of the postponements, more than one postponement may be made under subsection (4) in the case of the same report.
- (7) A report under this section—
- (a) must contain such information and statements as may be prescribed; and
 - (b) must be made in accordance with the prescribed requirements.
- (8) Regulations may—
- (a) provide that, in prescribed circumstances, there shall be no obligation to make a report that would otherwise fall to be made under this section;
 - (b) make provision for the period within which, and the manner in which, applications may be made for a postponement under subsection (4); and
 - (c) modify subsections (3) and (5) by substituting periods of different lengths for the periods for the time being specified in those subsections.
- (9) If there is any failure by the trustees or managers of any scheme to comply with their duty to make a report in accordance with the requirements imposed by or under this section—
- ^{F2}(a)
 - (b) section 10 applies (irrespective of the description of scheme involved) to any trustee or manager who has failed to take all such steps.]

Textual Amendments

F2 S. 72A(9)(a) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 59, Sch. 13; S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3); S.I. 2005/1108, art. 2(2), Sch.

[^{F3}72B Directions by Authority for facilitating winding-up.

- (1) Subject to the following provisions of this section, the Authority shall have power, at any time after the winding-up of an occupational pension scheme has begun, to give directions under this section if they consider that the giving of the direction is appropriate on any of the grounds set out in subsection (2).

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- (2) Those grounds are—
- (a) that the trustees or managers of the scheme are not taking all the steps in connection with the winding-up that the Authority consider would be being taken if the trustees or managers were acting reasonably;
 - (b) that steps being taken by the trustees or managers for the purposes of the winding-up involve things being done with what the Authority consider to be unreasonable delay;
 - (c) that the winding-up is being obstructed or unreasonably delayed by the failure of any person—
 - (i) to provide information to the trustees or managers;
 - (ii) to provide information to a person involved in the administration of the scheme;
 - (iii) to provide information to a person of a prescribed description; or
 - (iv) to take any step (other than the provision of information) that he has been asked to take by the trustees or managers;
 - (d) that the winding-up would be likely to be facilitated or accelerated by the taking by any person other than the trustees or managers of any other steps;
 - (e) that in any prescribed circumstances not falling within paragraphs (a) to (d)—
 - (i) the provision by any person of any information to the trustees or managers or to any other person, or
 - (ii) the taking of any other step by any person,would be likely to facilitate or accelerate the progress of the winding-up.
- (3) Except in prescribed circumstances, the power of the Authority to give a direction under this section in the case of a winding-up shall be exercisable only where—
- (a) periodic reports about the progress of the winding-up are required to be made under section 72A; and
 - (b) the first report that has to be made for the purposes of that section in the case of that winding-up either has been made or should have been made.
- (4) Regulations may provide that, in prescribed circumstances, the Authority shall not give a direction on the ground set out in subsection (2)(e) except in response to an application made by the trustees or managers of the scheme for the giving of a direction on that ground.
- (5) A direction under this section is a direction in writing given to and imposing requirements on—
- (a) any or all of the trustees or managers of the scheme;
 - (b) a person who is involved in its administration; or
 - (c) a person of a prescribed description.
- (6) The requirements that may be imposed by a direction under this section are any requirement for the person to whom it is given, within such period specified in the direction as the Authority may consider reasonable—
- (a) to provide the trustees or managers with all such information as may be specified or described in the direction;
 - (b) to provide a person involved in the administration of the scheme with all such information as may be so specified or described;
 - (c) to provide a person who is of a prescribed description with all such information as may be so specified or described;

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- (d) to take such steps (other than the provision of information) as may be so specified or described.

^{F4}(7)

(8) Regulations may—

- (a) impose limitations on the steps that a person may be required to take by a direction under this section;

^{F5}(b)

(9) In this section references, in relation to a scheme, to a person involved in the administration of the scheme are (subject to subsection (10)) references to any person who is so involved otherwise than as—

- (a) the employer in relation to that scheme;
 (b) a trustee or manager of the scheme;
 (c) the auditor of the scheme or its actuary;
 (d) a legal adviser of the trustees or managers of the scheme;
 (e) a fund manager for the scheme;
 (f) a person acting on behalf of a person who is involved in the administration of the scheme;
 (g) a person providing services to a person so involved;
 (h) a person acting in his capacity as an employee of a person so involved;
 (i) a person who would fall within any of paragraphs (f) to (h) if persons acting in relation to the scheme in any capacity mentioned in the preceding paragraphs were treated as involved in the administration of a scheme.

(10) In this section references, in relation to a scheme, to a person involved in the administration of the scheme do not include references to persons of a particular description if regulations provide for persons of that description to be excluded from those references.

Textual Amendments

- F3** Ss. 72B, 72C inserted (1.3.2002 for specified purposes, 1.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 50, 86(1)(b)(2)** (with s. 83(6)); S.I. 2002/437, art. 3(1)(f)(2)
- F4** S. 72B(7) repealed (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 13**; S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F5** S. 72B(8)(b) repealed (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 13**; S.I. 2006/560, art. 2(3), Sch. Pt. 3

72C Duty to comply with directions under s. 72B.

(1) It shall be the duty of any person to whom a direction is given under section 72B to comply with it.

^{F6}(2)

(3) Section 10 applies to any trustee or manager of a scheme who fails, without reasonable excuse, to take all such steps as are reasonable to secure compliance by the trustees or managers of that scheme with any direction given to them under section 72B.

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- (4) Section 10 applies to any person who—
- (a) is a person to whom a direction under section 72B is given otherwise than in the capacity of a trustee or manager; and
 - (b) without reasonable excuse, fails to comply with that direction.
- (5) For the purposes of this section it shall not be a reasonable excuse in relation to any failure to provide information in pursuance of a direction under section 72B that the provision of that information would (but for the duty imposed by subsection (1) of this section) involve a breach by any person of a duty owed to another not to disclose that information.]

Textual Amendments

- F3** Ss. 72B, 72C inserted (1.3.2002 for specified purposes, 1.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 50, 86(1)(b)(2) (with s. 83(6)); S.I. 2002/437, art. 3(1)(f)(2)
- F6** S. 72C(2) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 60, Sch. 13; S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Schs. 2, 3); S.I. 2005/1108, art. 2(2), Sch.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- [Blanket amendment words substituted by S.I. 2011/1043 art. 36](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 37\(1A\)\(b\) inserted by 2015 c. 8 Sch. 2 para. 7\(b\)](#)
- [s. 51\(5A\)-\(5C\) inserted by 2015 c. 8 s. 43\(1\)](#)
- [s. 51\(7A\) inserted by 2015 c. 8 s. 41\(1\)\(b\)](#)
- [s. 51\(9\)\(10\) inserted by 2015 c. 8 s. 42\(3\)](#)
- [s. 67A\(3\)\(aa\)-\(ac\) inserted by 2015 c. 8 s. 45\(3\)](#)
- [s. 67A\(9\)\(a\)\(viii\)-\(x\) inserted by 2015 c. 8 s. 45\(6\)\(a\)](#)
- [s. 67A\(9\)\(b\)\(vi\)-\(viii\) inserted by 2015 c. 8 s. 45\(6\)\(b\)](#)
- [s. 73\(2\)\(2A\) substituted for s. 73\(2\) by 2015 c. 8 Sch. 2 para. 11](#)
- [s. 75\(1\)-\(1B\) substituted for s. 75\(1\) by 2015 c. 8 Sch. 2 para. 12](#)
- [s. 175\(2\)\(ca\) inserted by 2004 c. 35 s. 240\(2\)](#)
- [s. 175\(2\)\(za\) inserted by 2015 c. 8 s. 43\(2\)](#)