



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Winding up

73 Preferential liabilities on winding up

- (1) This section applies, where a salary related occupational pension scheme to which section 56 applies is being wound up, to determine the order in which the assets of the scheme are to be applied towards satisfying the liabilities in respect of pensions and other benefits (including increases in pensions).
- (2) The assets of the scheme must be applied first towards satisfying the amounts of the liabilities mentioned in subsection (3) and, if the assets are insufficient to satisfy those amounts in full, then—
 - (a) the assets must be applied first towards satisfying the amounts of the liabilities mentioned in earlier paragraphs of subsection (3) before the amounts of the liabilities mentioned in later paragraphs, and
 - (b) where the amounts of the liabilities mentioned in one of those paragraphs cannot be satisfied in full, those amounts must be satisfied in the same proportions.
- (3) The liabilities referred to in subsection (2) are—
 - (a) any liability for pensions or other benefits which, in the opinion of the trustees, are derived from the payment by any member of the scheme of voluntary contributions,
 - (b) where a person's entitlement to payment of pension or other benefit has arisen, liability for that pension or benefit and for any pension or other benefit which will be payable to dependants of that person on his death (but excluding increases to pensions),
 - (c) any liability for—

Status: This is the original version (as it was originally enacted).

- (i) pensions or other benefits which have accrued to or in respect of any members of the scheme (but excluding increases to pensions), or
 - (ii) (in respect of members with less than two years pensionable service) the return of contributions,
- (d) any liability for increases to pensions referred to in paragraphs (b) and (c); and, for the purposes of subsection (2), the amounts of the liabilities mentioned in paragraphs (b) to (d) are to be taken to be the amounts calculated and verified in the prescribed manner.
- (4) To the extent that any liabilities, as calculated in accordance with the rules of the scheme, have not been satisfied under subsection (2), any remaining assets of the scheme must then be applied towards satisfying those liabilities (as so calculated) in the order provided for in the rules of the scheme.
- (5) If the scheme confers power on any person other than the trustees or managers to apply the assets of the scheme in respect of pensions or other benefits (including increases in pensions), it cannot be exercised by that person but may be exercised instead by the trustees or managers.
- (6) If this section is not complied with—
 - (a) section 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
 - (b) section 10 applies to any trustee or manager who has failed to take all such steps.
- (7) Regulations may modify subsection (3).
- (8) This section does not apply to an occupational pension scheme falling within a prescribed class or description.
- (9) This section shall have effect with prescribed modifications in cases where part of a salary related occupational pension scheme to which section 56 applies is being wound up.