



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Winding up

74 Discharge of liabilities by insurance, etc.

- (1) [^{F1}This section applies where an occupational pension scheme to which section 73 applies is being wound up.]
- (2) A liability to or in respect of a member of the scheme in respect of pensions or other benefits ^{F2}... is to be treated as discharged (to the extent that it would not be so treated apart from this section) if the trustees or managers of the scheme have, in accordance with prescribed arrangements, provided for the discharge of the liability in one or more of the ways mentioned in subsection (3).
- (3) The ways referred to in subsection (2) are—
 - (a) by acquiring transfer credits allowed under the rules of another occupational pension scheme which satisfies prescribed requirements and the trustees or managers of which are able and willing to accept payment in respect of the member,
 - (b) by acquiring rights allowed under the rules of a personal pension scheme which satisfies prescribed requirements and the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights [^{F3}or pension credit rights],
 - (c) by purchasing one or more annuities which satisfy prescribed requirements from one or more [^{F4}insurers], being companies willing to accept payment in respect of the member from the trustees or managers,
 - (d) by subscribing to other pension arrangements which satisfy prescribed requirements,

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[^{F5}(e) by the payment of a cash sum in circumstances where prescribed requirements are met.]

(4) If the assets of the scheme are insufficient to satisfy in full the liabilities, as calculated in accordance with the [^{F6}scheme rules], in respect of pensions and other benefits ^{F7}... , the reference in subsection (2) to providing for the discharge of any liability in one or more of the ways mentioned in subsection (3) is to applying any amount available, in accordance with section 73, in one or more of those ways.

(5) Regulations may provide for this section—

(a) to have effect in relation to so much of any liability as may be determined in accordance with the regulations, ^{F8}...

^{F8}(b)

[^{F9}(6) For the purposes of this section—

(a) references to assets of the scheme do not include any assets representing the value of any rights in respect of money purchase benefits under the scheme rules, and

(b) references to liabilities of the scheme do not include any liabilities in respect of money purchase benefits under the scheme rules;

and “scheme rules” has the same meaning as in the Pensions Act 2004 (see section 318 of that Act).]

Textual Amendments

- F1** S. 74(1) substituted (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(a\)](#), 322(1) (with s. 313); S.I. 2005/275, art. 2(3), Sch. Pt. 3 (with art. 2(8)(9)) (with savings in S.I. 2005/695, art. 6A)
- F2** Words in s. 74(2) repealed (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(b\)](#), 322(1), [Sch. 13](#) (with s. 313); S.I. 2005/275, art. 2(3), Sch. Pt. 3 (with art. 2(8)(9)) (with savings in S.I. 2005/695, art. 6A)
- F3** Words in s. 74(3)(b) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 12 para. 56](#); S.I. 2000/1047, art. 2(2)(d), [Sch. Pt. IV](#)
- F4** Word in s. 74(3)(c) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [144](#)
- F5** S. 74(3)(e) inserted (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(c\)](#), 322(1) (with s. 313); S.I. 2005/275, art. 2(3), Sch. Pt. 3 (with art. 2(8)(9)) (with savings in S.I. 2005/695, art. 6A)
- F6** Words in s. 74(4) substituted (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(d\)\(i\)](#), 322(1) (with s. 313); S.I. 2005/275, art. 2(3), Sch. Pt. 3 (with art. 2(8)(9)) (with savings in S.I. 2005/695, art. 6A)
- F7** Words in s. 74(4) repealed (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(d\)\(ii\)](#), 322(1), [Sch. 13](#) (with s. 313); S.I. 2005/275, art. 2(3), Sch. Pt. 3 (with art. 2(8)(9)) (with savings in S.I. 2005/695, art. 6A)
- F8** S. 74(5)(b) and preceding word repealed (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(e\)](#), 322(1), [Sch. 13](#) (with s. 313); S.I. 2005/275, art. 2(3), Sch. Pt. 3 (with art. 2(8)(9)) (with savings in S.I. 2005/695, art. 6A)
- F9** S. 74(6) inserted (10.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 270\(2\)\(f\)](#), 322(1) (with s. 313); S.I. 2005/275, art. 2(3)(a)(b), Sch. Pt. 3 (with art. 2(8)(9))

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Modifications etc. (not altering text)

- C1** Ss. 73-74 applied (with modifications) by [The Occupational Pension Schemes \(Winding Up\) Regulations 1996 \(S.I. 1996/3126\)](#), regs. 1(1), **12** (as amended (6.4.2005) by [S.I. 2005/706](#), reg. 1(2), Sch. paras. 6, 7)
- C2** S. 74 excluded (temp.) (6.3.1997) by [The Pensions Act 1995 \(Commencement No. 10\) Order 1997 \(S.I. 1997/664\)](#), **art. 11(1)**
- C3** S. 74(2) modified (6.4.2005) by [The Occupational Pension Schemes \(Winding up etc.\) Regulations 2005 \(S.I. 2005/706\)](#), regs. 1(2), **10(3)**
- C4** S. 74(4) modified (6.4.2005) by [The Occupational Pension Schemes \(Winding up etc.\) Regulations 2005 \(S.I. 2005/706\)](#), regs. 1(2), **10(3)**

Commencement Information

- I1** S. 74 in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 3** (with [art. 11\(1\)](#))
- I2** S. 74(1) in force at 16.10.1996 for specified purposes by [S.I. 1996/2637](#), **art. 3**
- I3** S. 74(2)(3) in force at 6.4.1996 for specified purposes by [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. V**
- I4** S. 74(5)(a) in force at 16.10.1996 for specified purposes by [S.I. 1996/2637](#), **art. 3**
- I5** S. 74(5)(b) in force at 6.4.1996 for specified purposes by [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. V**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 74 power to modify conferred by [2015 c. 8 s. 26\(3\)\(a\)](#)

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\(2\)](#)