



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 2

#### THE BOARD OF THE PENSION PROTECTION FUND

### CHAPTER 7

#### MISCELLANEOUS

##### **Modifications etc. (not altering text)**

- C1** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/277\)](#), regs. 1(1), **2-11**
- C2** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1, **2-60**, 71, 72

#### *Backdating the winding up of eligible schemes*

### **219 Backdating the winding up of eligible schemes**

- (1) Subsection (3) applies where—
- (a) a qualifying insolvency event occurs in relation to the employer in relation to an eligible scheme, and
  - (b) the winding up of the scheme begins at or after the time of that event but not later than the first of the following events in relation to the scheme—
    - (i) a scheme failure notice or a withdrawal notice issued under section 122(2) in relation to the scheme becoming binding,
    - (ii) a withdrawal notice issued under section 148 in relation to the scheme becoming binding, or

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**Changes to legislation:** *Pensions Act 2004, Chapter 7 is up to date with all changes known to be in force on or before 20 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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- (iii) a notice issued under section 122(4) becoming binding in a case where section 148 does not apply.
- (2) Subsection (3) also applies where—
  - (a) the trustees or managers of an eligible scheme—
    - (i) make an application to the Board under subsection (1) of section 129, or
    - (ii) receive a notice from the Board under subsection (5)(a) of that section, and
  - (b) the winding up of the scheme begins—
    - (i) at or after the time the application is made or notice is received, but
    - (ii) not later than a scheme failure notice or a withdrawal notice issued under section 130(2) or (3) in relation to the scheme becoming binding.
- (3) The winding up of the scheme is to be taken as beginning immediately before the event within subsection (1)(a) or, as the case may be, subsection (2)(a) if—
  - (a) the winding up is in pursuance of an order of the Regulator under section 11 of the Pensions Act 1995 (c. 26) directing the winding up of the scheme, or
  - (b) in any other case, the trustees or managers of the scheme so determine.
- (4) In a case where subsection (3) applies, the Regulator may by order direct any person specified in the order—
  - (a) to take such steps as are so specified as it considers are necessary as a result of the winding up of the scheme beginning in accordance with that subsection, and
  - (b) to take those steps within a period specified in the order.
- (5) If the trustees or managers of a scheme fail to comply with a direction to them contained in an order under subsection (4), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.
- (6) That section also applies to any other person who, without reasonable excuse, fails to comply with a direction to him contained in an order under subsection (4).
- (7) For the purposes of this section “qualifying insolvency event” has the same meaning as in section 127.
- (8) Subsection (4) of section 128 applies for the purposes of subsection (2) of this section as it applies for the purposes of subsection (1) of that section.
- (9) This section is to be read subject to section 135 (which restricts the winding up of an eligible scheme during an assessment period).

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**Commencement Information**

**II** S. 219 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

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## *Pension sharing*

### **220 Pension sharing**

- (1) Regulations may modify any of the provisions of this Part as it applies in relation to—
- (a) cases where a person’s shareable rights under an eligible scheme have (at any time) become subject to a pension debit;
  - (b) cases where—
    - (i) a pension sharing order or provision in respect of such rights is made before the time a transfer notice under section 160 is received by the trustees or managers of the eligible scheme, and
    - (ii) that order or provision takes effect on or after the receipt by them of the notice.
- (2) Regulations may also modify any of the provisions of Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 (c. 30) (pension sharing) as it applies in relation to—
- (a) cases within subsection (1)(a) where any liability of the trustees or managers of the eligible scheme in respect of a pension credit was not discharged before the time a transfer notice under section 160 was received by the trustees or managers of the eligible scheme;
  - (b) cases within subsection (1)(b).
- (3) In this section—
- “pension debit” and “shareable rights” have the same meaning as in Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 (c. 30) (pension sharing);
  - “pension sharing order or provision” means an order or provision falling within section 28(1) of that Act (activation of pension sharing).

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#### **Commencement Information**

**I2** S. 220 in force at 1.1.2006 by [S.I. 2005/3331](#), art. 2(3), [Sch. Pt. 3](#)

**Changes to legislation:**

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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\(i\)\(iv\)](#))