



Pensions Act 2004

2004 CHAPTER 35

PART 3

SCHEME FUNDING

Scheme funding

231 Powers of the Regulator

(1) The powers conferred by this section are exercisable where it appears to the Regulator with respect to a scheme (as a result of a report made to it or otherwise)—

[^{F1}(zza) that the trustees or managers have failed to comply with any of the requirements of section 221A (funding and investment strategy) or regulations under that section;]

[^{F2}(za) that the trustees or managers, when determining the methods and assumptions to be used in calculating the scheme's technical provisions, have failed to comply with a requirement imposed under section 222(4)(c);]

- (a) that the trustees or managers have failed to comply with the requirements of section 223 with respect to the preparation or revision of a statement of funding principles;
- (b) that the trustees or managers have failed to obtain an actuarial valuation as required by section 224(1);
- (c) that the actuary is unable, on an actuarial valuation required by section 224(1), to certify the calculation of the scheme's technical provisions;
- (d) that the trustees or managers have failed to comply with the requirements of section 226 with respect to the preparation or revision of a recovery plan;
- (e) that the trustees or managers have failed to comply with the requirements of section 227 with respect to the preparation or revision of a schedule of contributions;
- (f) that the actuary is unable to certify a schedule of contributions (see section 227(6));

Changes to legislation: Pensions Act 2004, Section 231 is up to date with all changes known to be in force on or before 18 June 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

- (g) that the employer has failed to make payments in accordance with the schedule of contributions, or that are required of him by virtue of section 228(3), and the failure is of material significance;
 - (h) that the trustees or managers have been unable to reach agreement with the employer within the prescribed time as to a matter in relation to which such agreement is required (see section 229(5)).
- (2) In any of those circumstances the Regulator may by order exercise all or any of the following powers—
- (a) it may modify the scheme as regards the future accrual of benefits;
 - [^{F3}(aa) it may give a direction requiring the trustees or managers to revise the scheme's funding and investment strategy in accordance with the direction;]
 - (b) it may give directions as to—
 - (i) the manner in which the scheme's technical provisions are to be calculated, including the methods and assumptions to be used in calculating the scheme's technical provisions, or
 - (ii) the period within which, and manner in which, any failure to meet the statutory funding objective is to be remedied;
 - (c) it may impose a schedule of contributions specifying—
 - (i) the rates of contributions payable towards the scheme by or on behalf of the employer and the active members of the scheme, and
 - (ii) the dates on or before which such contributions are to be paid.
- (3) No modification may be made under subsection (2)(a) that on taking effect would or might adversely affect any subsisting right of—
- (a) any member of the scheme, or
 - (b) any survivor of a member of the scheme.
- For this purpose “subsisting right” and “survivor” have the meanings given by section 67A of the Pensions Act 1995.
- (4) In exercising any of the powers conferred by this section the Regulator must comply with any prescribed requirements.
- (5) The powers conferred by this section are in addition to any other powers exercisable by the Regulator under this Act or the Pensions Act 1995 (c. 26).

Textual Amendments

- F1** S. 231(1)(zza) inserted (11.2.2021 for specified purposes, 6.4.2024 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(b), **Sch. 10 para. 7(2)**; S.I. 2024/451, reg. 2(b)
- F2** S. 231(1)(za) inserted (26.1.2009) by Pensions Act 2008 (c. 30), **ss. 132, 149(1)**; S.I. 2009/82, art. 2(1)(c)
- F3** S. 231(2)(aa) inserted (11.2.2021 for specified purposes, 6.4.2024 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(b), **Sch. 10 para. 7(3)**; S.I. 2024/451, reg. 2(b)

Modifications etc. (not altering text)

- C1** Pt. 3 excluded by S.I. 2000/3198 Sch. (as inserted (30.12.2005) by The Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377), reg. 1, **Sch. 3 para. 13(4)**)
- C2** Pt. 3 applied (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, **15(1)**

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- C3** Pt. 3 modified (30.12.2005) by [The Occupational Pension Schemes \(Regulatory Own Funds\) Regulations 2005 \(S.I. 2005/3380\)](#), regs. 1, **5(1)**
- C4** Pt. 3 excluded (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), regs. 1, **17**
- C5** Pt. 3 modified (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), regs. 1, 19, **Sch. 2**
- C6** Pt. 3 extended by S.I. 1996/1172 reg. 49(4)(a)(i) (as substituted (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), reg. 1, **Sch. 3 para. 1(5)(a)**)
- C7** Ss. 224-231 modified (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), reg. 1, **Sch. 4 para. 7**

Commencement Information

- I1** S. 231 in force at 4.12.2005 for specified purposes by [S.I. 2005/3331](#), art. 2(1), **Sch. Pt. 1**
- I2** S. 231 in force at 30.12.2005 in so far as not already in force by [S.I. 2005/3331](#), art. 2(1), **Sch. Pt. 1**

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))