



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Valuation of assets and liabilities

143 Board's obligation to obtain valuation of assets and protected liabilities

- (1) This section applies in a case within subsection (1) of section 127 or 128.
- (2) For the purposes of determining whether the condition in subsection (2)(a) of the section in question is satisfied, the Board must, as soon as reasonably practicable, obtain an actuarial valuation of the scheme as at the relevant time.
- (3) For those purposes, regulations may provide that any of the following are to be regarded as assets or protected liabilities of the scheme at the relevant time if prescribed requirements are met—
 - (a) a debt due to the trustees or managers of the scheme by virtue of a contribution notice issued under section 38, 47 or 55 during the pre-approval period;
 - (b) an obligation arising under financial support for the scheme (within the meaning of section 45) put in place during the pre-approval period in accordance with a financial support direction issued under section 43;
 - (c) an obligation imposed by a restoration order made under section 52 during the pre-approval period in respect of a transaction involving assets of the scheme.
- (4) For the purposes of this section, regulations may prescribe how—
 - (a) the assets and the protected liabilities of eligible schemes, and
 - (b) their amount or value,

Status: Point in time view as at 01/10/2009. This version of this provision has been superseded.

Changes to legislation: Pensions Act 2004, Section 143 is up to date with all changes known to be in force on or before 09 September 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)

are to be determined, calculated and verified.

(5) Regulations under subsection (4) may provide, in particular, that when calculating the amount or value of assets or protected liabilities of an eligible scheme at the relevant time which consist of any of the following—

- (a) a debt (including any contingent debt) due to the trustees or managers of the scheme from the employer under section 75 of the Pensions Act 1995 (c. 26) (deficiencies in the scheme assets),
- (b) a debt due to the trustees or managers of the scheme by virtue of a contribution notice issued under section 38, 47 or 55,
- (c) an obligation arising under financial support for the scheme (within the meaning of section 45) put in place in accordance with a financial support direction issued under section 43, or
- (d) an obligation imposed by a restoration order made under section 52 in respect of a transaction involving assets of the scheme,

account must be taken in the prescribed manner of prescribed events which occur during the pre-approval period.

[^{F1}(5A) Subsection (5B) applies if—

- (a) during the pre-approval period any liability to provide pensions or other benefits to or in respect of any member or members under the scheme is discharged by virtue of regulations under section 135(4) or the Board validating any action mentioned in section 135(9), and
- (b) at the relevant time the protected liabilities of the scheme include any cost within section 131(1)(a) relating to compensation in respect of those pensions or other benefits.

(5B) If this subsection applies, for the purposes mentioned in subsection (2)—

- (a) in determining that cost the effect of the discharge on the compensation payable in respect of those pensions or other benefits under paragraph 23A of Schedule 7 must be taken into account,
- (b) in a case where assets of the scheme at the relevant time were transferred from the scheme during the pre-approval period in consideration for the discharge, those assets are not to be regarded as assets of the scheme at the relevant time, and
- (c) in a case where assets that were not assets of the scheme at that time (“later-acquired assets”) were so transferred, the value of the assets of the scheme at that time is to be reduced by the value of the later-acquired assets at the time of the discharge.]

(6) Subject to any provision made under subsection (4), the matters mentioned in paragraphs (a) and (b) of that subsection are to be determined, calculated and verified in accordance with guidance issued by the Board.

(7) In calculating the amount of any liabilities for the purposes of this section, a provision of the scheme rules which limits the amount of the scheme’s liabilities by reference to the value of its assets is to be disregarded.

(8) The duty imposed by subsection (2) ceases to apply if and when the Board ceases to be involved with the scheme.

(9) Nothing in subsection (2) requires the actuarial valuation to be obtained during any period when the Board considers that an event may occur which, by virtue of

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regulations under subsection (3) or (4) ^{F2}or by virtue of subsection (5B)], may affect the value of the assets or the amount of the protected liabilities of the scheme for the purposes of the valuation.

- (10) In a case where there are one or more reviewable ill health pensions (within the meaning of section 140), nothing in subsection (2) requires the actuarial valuation to be obtained during the period mentioned in section 141(5)(b) (period during which Board may exercise its power to make a decision following a review) relating to any such pension.
- (11) For the purposes of this section—
- (a) “actuarial valuation”, in relation to the scheme, means a written valuation of the assets and protected liabilities of the scheme which—
 - (i) is in the prescribed form and contains the prescribed information, and
 - (ii) is prepared and signed by—
 - (a) a person with prescribed qualifications or experience, or
 - (b) a person approved by the Secretary of State,
 - (b) “the pre-approval period”, in relation to the scheme, means the period which—
 - (i) begins immediately after the relevant time, and
 - (ii) ends immediately before the time the Board first approves a valuation of the scheme under section 144 after the relevant time,
 - (c) “the relevant time”—
 - (i) in a case within subsection (1) of section 127, has the meaning given in subsection (4)(b) of that section, and
 - (ii) in a case within subsection (1) of section 128, has the meaning given in subsection (3)(b) of that section, and
 - (d) references to “assets” do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules.

Textual Amendments

- F1** S. 143(5A)(5B) inserted (6.4.2005) by [The Occupational Pension Schemes \(Modification of Pension Protection Provisions\) Regulations 2005 \(S.I. 2005/705\)](#), regs. 1(2), **2(2)**
- F2** Words in s. 143(9) inserted (6.4.2005) by [The Occupational Pension Schemes \(Modification of Pension Protection Provisions\) Regulations 2005 \(S.I. 2005/705\)](#), regs. 1(2), **2(3)**

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

Commencement Information

- I1** S. 143(1)(2)(6)-(10) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I2** S. 143(3)-(5) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

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| <p>I3</p> <p>I4</p> | <p>S. 143(11) in force in so far as it relates to paragraphs (i) and (ii)(a) of the definition of "actuarial valuation" in paragraph (a) for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes in relation to those paragraphs of that definition at 6.4.2005 for specified purposes by S.I. 2005/275, art. 2(3), Sch. Pt. 3</p> <p>S. 143(11) in force in so far as not already in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7</p> |
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