

Status: Point in time view as at 23/07/2012.

*Changes to legislation: There are currently no known outstanding effects for the Pensions Act 2011,
Cross Heading: Requirements to obtain actuarial valuations. (See end of Document for details)*

SCHEDULES

SCHEDULE 4

PENSION PROTECTION FUND

Requirements to obtain actuarial valuations

1 The Pensions Act 2004 is amended as follows.

Commencement Information

- I1** Sch. 4 para. 1 in force at 3.1.2012 for specified purposes by S.I. 2011/3034, art. 3(i)(i)
I2 Sch. 4 para. 1 in force at 23.7.2012 for specified purposes by S.I. 2012/1681, art. 3(b)(i)

2 In section 58(3) (right to apply under section 423 of the Insolvency Act 1986)—
(a) for the words from “an actuarial” to the first “scheme” substitute “ a determination made, or actuarial valuation obtained, in respect of the scheme by the Board of the Pension Protection Fund under section 143(2)”, and
(b) for “that section” substitute “ section 143 ”.

Commencement Information

- I3** Sch. 4 para. 2 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

3 (1) Section 141 (effect of review of ill-health pension) is amended as follows.
(2) In subsection (4) after “which” insert “ a determination under section 143(2)(a) or ”.
(3) In subsection (5)(a) after “first” insert “ makes a determination under section 143(2)(a) or ”.

Commencement Information

- I4** Sch. 4 para. 3 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

4 In section 142(1) (interpretation) in the definition of “scheme valuation” for “143” substitute “ 143(2)(b) ”.

Commencement Information

- I5** Sch. 4 para. 4 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

5 (1) Section 143 (Board's obligation to obtain valuation of assets and protected liabilities) is amended as follows.

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(2) For subsection (2) substitute—

“(2) The Board must, as soon as reasonably practicable—

- (a) determine whether the condition in subsection (2)(a) of the section in question is satisfied, or
- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation of the scheme as at the relevant time.

(2A) Before doing so, it must give a notice stating whether it will make a determination under subsection (2)(a) or obtain an actuarial valuation under subsection (2)(b) to—

- (a) the trustees or managers of the scheme, and
- (b) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.”

(3) In subsection (3) for “those purposes” substitute “ the purposes of this section ”.

(4) In subsection (4) for “this section” substitute “ a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b) ”.

(5) In subsection (5B) for “mentioned in subsection (2)” substitute “ of this section ”.

(6) After subsection (5B) insert—

“(5C) The Board must issue a statement setting out how (subject to any provision made under subsection (4)) it will make determinations under subsection (2) (a).”

(7) In subsection (6)—

- (a) after “subsection (4),” insert “ for the purposes of an actuarial valuation obtained under subsection (2)(b) ”, and
- (b) for “paragraphs (a) and (b) of that subsection” substitute “ subsection (4)(a) and (b) ”.

(8) In subsection (9)—

- (a) for “requires the” substitute “ requires a determination to be made, or an ”, and
- (b) after “purposes of” insert “ the determination or ”.

(9) In subsection (10) for “requires the” substitute “ requires a determination to be made, or an ”.

(10) In subsection (11)(b)(ii) after “first” insert “ makes a determination under subsection (2)(a) or ”.

Commencement Information

I6 Sch. 4 para. 5 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

6 After section 143 insert—

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“143A Determinations under section 143

- (1) Where the Board makes a determination under section 143(2)(a) it must give a copy of the determination to—
 - (a) the Regulator,
 - (b) the trustees or managers of the scheme, and
 - (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (2) For the purposes of this Chapter a determination under section 143(2)(a) is not binding until—
 - (a) the period within which the determination may be reviewed by virtue of Chapter 6 has expired, and
 - (b) if the determination is so reviewed—
 - (i) the review and any reconsideration,
 - (ii) any reference to the PPF Ombudsman in respect of the determination, and
 - (iii) any appeal against the PPF Ombudsman's determination or directions,has been finally disposed of.
- (3) For the purposes of determining whether or not the condition in section 127(2)(a) or, as the case may be, section 128(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under section 143(2)(a) is conclusive.

This subsection is subject to section 172(3) and (4) (treatment of fraud compensation payments).
- (4) Where a determination under section 143(2)(a) becomes binding under this section the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding determination to—
 - (a) the Regulator,
 - (b) the trustees or managers of the scheme, and
 - (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (5) A notice under subsection (4) must be in the prescribed form and contain the prescribed information.”

Commencement Information

I7 Sch. 4 para. 6 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 7 (1) Section 144 (approval of valuation) is amended as follows.
- (2) In subsection (1) for “143” substitute “ 143(2)(b) ”.
- (3) In subsection (2) for “that section” substitute “ section 143 ”.

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Commencement Information

I18 Sch. 4 para. 7 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

8 In section 145(1) (binding valuations) for “143” substitute “ 143(2)(b) ”.

Commencement Information

I19 Sch. 4 para. 8 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

9 (1) Section 151 (application for Board to assume responsibility for schemes) is amended as follows.

(2) In subsections (2)(b) and (3)(b) for the words from “the valuation” to “scheme” substitute “ the determination made by the Board or valuation obtained by the Board in respect of the scheme under section 143(2) ”.

(3) In subsection (6)—

(a) in paragraphs (a)(ii) and (b)(ii) after “binding” insert “ determination or ”, and

(b) in paragraph (a)(ii) for “section” substitute “ subsection ”.

(4) In subsection (10) for “under that section” substitute “ under section 143(2)(b) ”.

Commencement Information

I10 Sch. 4 para. 9 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

10 In section 154(5)(b) (requirement to wind up scheme) after “that the” insert “ determination made by the Board or ”.

Commencement Information

I11 Sch. 4 para. 10 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

11 (1) Section 158 (Board's duty to assume responsibility for closed schemes) is amended as follows.

(2) For subsection (3) substitute—

“(3) The Board must, as soon as reasonably practicable—

(a) determine whether the condition in subsection (1) is satisfied, or

(b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of section 143) of the scheme as at the relevant time.

(3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under subsection (3)(a) or obtain an actuarial valuation under subsection (3)(b).”

(3) In subsection (4) for “those purposes as it applies for the purposes mentioned in subsection (2)” substitute “ the purposes of this section as it applies for the purposes ”.

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- (4) In subsection (5)—
- (a) for “a valuation obtained under subsection (3)” substitute “ a determination made under subsection (3)(a) and a valuation obtained under subsection (3) (b) ”,
 - (b) for “a valuation obtained under section 143” substitute “ a determination made under section 143(2)(a) and a valuation obtained under section 143(2) (b) ”, and
 - (c) after paragraph (a) insert—
 - “(aa) section 143A (determinations under section 143), other than subsections (1)(c) and (4)(c) (duty to give copy of determinations to employer’s insolvency practitioner);”.
- (5) In subsection (6)—
- (a) after “sections 143” insert “ , 143A ”,
 - (b) omit “and” at the end of paragraph (a), and
 - (c) after that paragraph insert—
 - “(aa) subsection (3) of section 143A applies as if the reference to section 128(2)(a) included a reference to subsection (1) of this section, and”.

Commencement Information

I12 Sch. 4 para. 11 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 12 (1) Section 160 (transfer notice) is amended as follows.
- (2) In subsection (3) for “valuation obtained under section 143” substitute “ determination made or valuation obtained under section 143(2) ”.
- (3) In subsection (4) after “until the” insert “ determination made or ”.

Commencement Information

I13 Sch. 4 para. 12 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 13 (1) Schedule 9 (reviewable matters) is amended as follows.
- (2) For paragraph 8 substitute—
- “7B A notice under section 143(2A) (whether Board will make a determination or obtain an actuarial valuation).
 - 7C The failure by the Board either to—
 - (a) make a determination under section 143(2)(a), or
 - (b) obtain an actuarial valuation under section 143(2)(b).
 - 7D A determination by the Board under section 143(2)(a) (whether condition in section 127(2)(a) or 128(2)(a) satisfied).”
- (3) After paragraph 14 insert—
- “14A A notice under section 158(3A) (whether Board will make a determination or obtain an actuarial valuation).

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- 14B The failure by the Board either to—
- (a) make a determination under section 158(3)(a), or
 - (b) obtain an actuarial valuation under section 158(3)(b).
- 14C A determination by the Board under section 158(3)(a) (whether condition in section 158(1) satisfied).”

Commencement Information

I14 Sch. 4 para. 13 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

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