



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART VII

#### INSOLVENCY OF EMPLOYERS

#### **127 Transfer to Secretary of State of rights and remedies.**

- (1) Where in pursuance of section 124 the Secretary of State makes any payment into the resources of an occupational pension scheme or a personal pension scheme in respect of any contributions to the scheme, any rights and remedies in respect of those contributions belonging to the persons competent to act in respect of the scheme shall, on the making of the payment, become rights and remedies of the Secretary of State.
- (2) Where the Secretary of State makes any such payment as is mentioned in subsection (1) and the sum (or any part of the sum) falling to be paid by the employer on account of the contributions in respect of which the payment is made constitutes—
  - (a) a preferential debt within the meaning of the <sup>M1</sup>Insolvency Act 1986 for the purposes of any provision of that Act (including any such provision as applied by an order made under that Act) or any provision of [<sup>F1</sup>the Companies Acts (as defined in section 2(1) of the Companies Act 2006)]; or
  - (b) a preferred debt within the meaning of the Bankruptcy (Scotland) Act [<sup>F2</sup>2016] for the purposes of any provision of that Act (including any such provision as applied by section 11A of the <sup>M2</sup>Judicial Factors (Scotland) Act 1889),then, without prejudice to the generality of subsection (1), there shall be included among the rights and remedies which become rights and remedies of the Secretary of State in accordance with that subsection any right arising under any such provision by reason of the status of that sum (or that part of it) as a preferential or preferred debt.
- (3) In computing for the purposes of any provision referred to in subsection (2)(a) or (b) the aggregate amount payable in priority to other creditors of the employer in respect of—
  - (a) any claim of the Secretary of State to be so paid by virtue of subsection (2); and
  - (b) any claim by the persons competent to act in respect of the scheme,

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*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: Pension Schemes Act 1993, Section 127 is up to date with all changes known to be in force on or before 29 July 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)*

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any claim falling within paragraph (a) shall be treated as if it were a claim of those persons; but the Secretary of State shall be entitled, as against those persons, to be so paid in respect of any such claim of his (up to the full amount of the claim) before any payment is made to them in respect of any claim falling within paragraph (b).

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#### **Textual Amendments**

- F1** Words in s. 127(2)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 144(2)** (with art. 10)
- F2** Word in s. 127(2)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 11(3)**
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#### **Commencement Information**

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**
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#### **Marginal Citations**

- M1** 1986 c. 45.  
**M2** 1889 c. 39.

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