



Pension Schemes Act 1993

1993 CHAPTER 48

PART IX

MODIFICATION AND WINDING UP OF SCHEMES

Modification

138 Further provisions concerning the Board's powers under s. 136.

- (1) The Board shall not entertain an application for an order by them under section 136 unless they are satisfied that the purposes of the application—
 - (a) cannot be achieved otherwise than by means of such an order; or
 - (b) can only be achieved in accordance with a procedure which—
 - (i) is liable to be unduly complex or protracted, or
 - (ii) involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty.
- (2) Subject to subsection (1), the Board may on such an application make (with the consent of the applicants) any one or more such orders as are specified in section 136(1) and may exercise any of their powers to make such orders from time to time.
- (3) The extent of those powers is not limited, in relation to any purposes for which they are exercisable, to the minimum necessary to achieve those purposes.
- (4) The Board shall not make an order under section 136(1) unless they are satisfied that it is reasonable in all the circumstances to make it.
- (5) The Board shall not make any such order under that section as would, or might in their opinion, result in any existing or prospective entitlement of a member of the scheme, in respect of a period before the coming into force of the order or of any modification which the order authorises, being diminished or curtailed without his consent, unless they are satisfied that it is in the interests of the generality of members that the order should be made.

Status: Point in time view as at 07/02/1994. This version of this provision has been superseded.

Changes to legislation: Pension Schemes Act 1993, Section 138 is up to date with all changes known to be in force on or before 25 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)

- (6) In considering whether or not to make an order under that section, the Board shall have regard—
- (a) to the structure and character of the scheme and the benefits provided by it;
 - (b) to the provisions of this Act and Chapter I of Part XIV of the ^{M1}Income and Corporation Taxes Act 1988; and
 - (c) to all the circumstances in general.
- (7) Regulations may provide that in prescribed circumstances subsections (4) and (5) shall not apply to occupational pension schemes or shall apply to them with prescribed modifications.

Commencement Information

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

Marginal Citations

M1 1988 c. 1.

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