



# Pensions Act 1995

## 1995 CHAPTER 26

### PART I

#### OCCUPATIONAL PENSIONS

##### *Winding up*

#### **76 Excess assets on winding up.**

- (1) This section applies to a trust scheme in any circumstances if—
  - <sup>F1</sup>(a) it is a registered pension scheme under section 153 of the Finance Act 2004,]
  - (b) the scheme is being wound up, and
  - (c) in those circumstances power is conferred on the employer or the trustees to distribute assets to the employer on a winding up.
- (2) The power referred to in subsection (1)(c) cannot be exercised unless the requirements of subsections (3) and (in prescribed circumstances) (4), and any prescribed requirements, are satisfied.
- (3) The requirements of this subsection are that—
  - (a) the liabilities of the scheme have been fully discharged,
  - (b) where there is any power under the scheme, after the discharge of those liabilities, to distribute assets to any person other than the employer, the power has been exercised or a decision has been made not to exercise it,
  - (c) <sup>F2</sup>... and
  - (d) notice has been given in accordance with prescribed requirements to the members of the scheme of the proposal to exercise the power.
- (4) The requirements of this subsection are that the Authority are of the opinion that—
  - (a) any requirements prescribed by virtue of subsection (2) are satisfied, and
  - (b) the requirements of subsection (3) are satisfied.

<sup>F3</sup>(5) .....

*Status: Point in time view as at 24/07/2014.*

*Changes to legislation: Pensions Act 1995, Section 76 is up to date with all changes known to be in force on or before 24 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)*

- (6) If, where this section applies to any trust scheme, the trustees purport to exercise the power referred to in subsection (1)(c) without complying with the requirements of this section, [<sup>F4</sup>section 10 applies] to any of them who have failed to take all such steps as are reasonable to secure compliance.
- (7) If, where this section applies to any trust scheme, any person other than the trustees purports to exercise the power referred to in subsection (1)(c) without complying with the requirements of this section, section 10 applies to him.
- (8) Regulations may provide that, in prescribed circumstances, this section does not apply to schemes falling within a prescribed class or description, or applies to them with prescribed modifications.

#### Textual Amendments

- F1** S. 76(1)(a) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **10(5)**
- F2** S. 76(3)(c) repealed (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), Sch. 12 para. 62(a), **Sch. 13**; [S.I. 2006/560](#), art. 2(3), Sch. Pt. 3
- F3** S. 76(5) repealed (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), Sch. 12 para. 62(b), **Sch. 13**; [S.I. 2006/560](#), art. 2(3), Sch. Pt. 3
- F4** Words in s. 76(6) substituted (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 62(c)**; [S.I. 2005/3331](#), art. 2(6), Sch. Pt. 6

#### Modifications etc. (not altering text)

- C1** S. 76 excluded (31.12.2000) by [The Occupational Pension Schemes \(Republic of Ireland Schemes Exemption\) Regulations 2000 \(S.I. 2000/3198\)](#), regs. 1(1), 2, **Sch.**
- C2** S. 76 excluded (6.4.2006) by [The Occupational Pension Schemes \(Payments to Employer\) Regulations 2006 \(S.I. 2006/802\)](#), regs. 1, **12(1)**
- C3** S. 76 modified (6.4.2006) by [The Occupational Pension Schemes \(Payments to Employer\) Regulations 2006 \(S.I. 2006/802\)](#), regs. 1, **18(6)**
- C4** S. 76 excluded (24.7.2014) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), **37(1)(b)**

#### Commencement Information

- I1** S. 76 in force at 6.4.1996 for specified purposes by [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. V**
- I2** S. 76 in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 3**

**Status:**

Point in time view as at 24/07/2014.

**Changes to legislation:**

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