

# WELFARE REFORM AND PENSIONS ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Commentary*

#### **Part II: Pensions: General**

#### ***Sections 15-16: Excessive pension contributions made by persons who have become bankrupt***

#### **Court orders (new sections 342B and 342C)**

Section 342B gives more details about the nature of an order made under subsection (2) of section 342A. *Subsection (1)* says that the order may include provision:

- requiring the pension scheme to pay an amount to the trustee in bankruptcy;
- reducing any pension benefits that the individual and his family are entitled to; and
- for recovery of costs incurred by the scheme in supplying information for the purposes of the application and in complying with the order.

*Subsection (3)* clarifies that an order to restore the rights of someone other than the bankrupt to what they would have been had the excessive contributions not been made, does not apply to rights that person has as a result of a pension sharing order or agreement (but see sections 342D to 342F inserted by paragraph 71 of Schedule 12).

*Subsection (4)* limits the amount which the pension scheme can be required to pay to the trustee in bankruptcy to the lesser of:

- the amount of the excessive contributions; or
- the current value of the bankrupt's pension rights under the scheme.

*Subsections (5) and (6)* provide that, where an order is made for the pension scheme to pay an amount to the trustee in bankruptcy, the order must provide for a corresponding reduction in the bankrupt's rights under the scheme.

An order under section 342A is binding on the trustees or managers of the pension scheme concerned, and overrides the scheme's rules so far as is necessary (*section 342B(7)*).

Section 342C provides supplementary details and clarification. In particular:

*Subsection (1)* of section 342C requires the trustees or managers of the pension scheme to give the trustee in bankruptcy information about the bankrupt's pension arrangements for the purposes of making an application to the court.

*Subsection (2)* provides that any other provisions or enactments which prevent assignment of pension rights, do not apply to a court making an order under section 342A.

*These notes refer to the Welfare Reform and Pensions Act 1999  
(c.30) which received Royal Assent on 11 November 1999*

*Subsections (4) and (5) provide for regulations and guidance concerning the calculation of the value of an individual's rights under the pension scheme and the calculation of the reduction in the scheme's liabilities in respect of that person.*