

These notes refer to the Child Support, Pensions and Social Security Act 2000 (c.19) which received Royal Assent on 28th July 2000

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000

EXPLANATORY NOTES

Part II: Pensions

Commentary on Sections

Chapter II: Occupational and Personal Pension Schemes

Winding-up of schemes

Section 50: Directions for facilitating winding-up

534. This section inserts new section 72B which allows Opra to direct that specific information should be provided, or action taken within a prescribed timescale, where a scheme has begun winding-up. It also inserts new section 72C which imposes sanctions on those not complying with Opra's directions.

New section 72B: Directions by Authority for facilitating winding-up

535. *New section 72B(1)* provides that where a scheme has begun winding-up, Opra will have power to give directions if they feel it is appropriate to do so on any of the grounds in subsection (2).

536. *New section 72B(2)* sets out the grounds Opra may take into account. It also allows regulations to prescribe further circumstances in which Opra may give directions.

537. *New section 72B(3)* limits Opra's powers to direct to where the first report has been made, or should have been made, to Opra under new section 72A, unless regulations prescribe otherwise.

538. *New section 72B(4)* allows regulations to provide that in certain circumstances Opra may only give directions when asked to do so by the trustees or managers of schemes.

539. *New section 72B(5)* provides that a direction from Opra must be given in writing, and can be given to trustees or managers, persons involved in the administration of the scheme or persons prescribed in regulations.

540. *New section 72B(6)* sets out requirements that can be imposed by a direction. They include providing information to the trustees, or managers, or persons involved in the administration of the scheme, or persons prescribed in regulations (which may include Opra), and requiring other steps to be taken.

541. *New section 72B(7)* allows Opra to extend the time limit for persons to comply with the direction, on more than one occasion if necessary, where Opra consider it appropriate to do so.

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- 542. *New section 72B(8)* allows for regulations to limit what Opra may require in their directions and sets out requirements as to when and how applications must be made for an extension to the period for complying with the direction.
- 543. *New section 72B(9)* sets out who is considered to be involved in the administration of the scheme for the purposes of these requirements. It is almost identical to new section 26C(1) (see section 47).
- 544. *New section 72B(10)* provides that regulations may add to the list of those who are not considered to be involved in the administration of the scheme. It is identical to new section 26C(2) (see section 47).

New section 72C: duty to comply with directions under 72B

- 545. *New section 72C(2)* provides that section 3 of the Pensions Act 1995 (Opra may prohibit a person from being a trustee) applies to any trustee who fails to take reasonable steps to ensure compliance, and has no reasonable excuse.
- 546. *New section 72C(3)* applies section 10 of the 1995 Act (financial penalties) to any trustee or manager who fails to take reasonable steps to ensure compliance, and has no reasonable excuse.
- 547. *New section 72C(4)* applies section 10 to anyone else who fails to comply with a direction, and has no reasonable excuse.
- 548. *New section 72C(5)* provides that any duty of non-disclosure is not a reasonable excuse for failure to supply information in accordance with directions from Opra. The statutory duty to comply with directions will mean that a person complying with a direction will not be in breach of the non-disclosure duty.