



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 3

PAYMENTS BY REGISTERED PENSION SCHEMES

Borrowing

182 Unauthorised borrowing: money purchase arrangements

- (1) A registered pension scheme is not authorised to borrow an amount in respect of a money purchase arrangement unless the arrangement borrowing condition is met.
- (2) The arrangement borrowing condition is met if—

$$\left(APB + PB \right) < \frac{VA}{2}$$

where—

APB is the aggregate of the amounts previously borrowed in respect of the arrangement (excluding any amounts which have been repaid),

PB is the amount proposed to be borrowed in respect of the arrangement, and

VA is the value of the arrangement.

- (3) The value of the arrangement is the aggregate of—

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- (a) the amount of such of the sums and the market value of such of the assets as represent the [^{F1}member's drawdown pension fund] in respect of the arrangement (if any),
 - (b) the amount of such of the sums and the market value of such of the assets as represent [^{F2}dependants' drawdown pension funds] in respect of the arrangement (if any),
 - (c) the aggregate of the value of each scheme pension or dependants' scheme pension payable in respect of the arrangement, and
 - (d) the value of the uncrystallised rights under the arrangement.
- (4) The value of a scheme pension or dependants' scheme pension payable in respect of the arrangement is—

$$RVF \times ARP$$

where—

RVF is the relevant valuation factor (see section 276), and

ARP is the annual rate at which the pension is payable.

- (5) Rights are uncrystallised if no-one has become entitled to the present payment of benefits in respect of the rights; and a person is to be treated as entitled to the present payment of benefits in respect of the sums and assets representing the person's [^{F3}drawdown pension fund].
- (6) If the arrangement is a cash balance arrangement, the value of the uncrystallised rights under the arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits in respect of those rights if a person became entitled to benefits in respect of those rights.
- (7) If the arrangement is a money purchase arrangement other than a cash balance arrangement, the value of the uncrystallised rights under the arrangement is the aggregate of the amount of such of the sums, and the market value of such of the assets, held for the purposes of the arrangement as represent those rights.
- (8) If the arrangement is a hybrid arrangement under which either cash balance benefits or other money purchase benefits (but not defined benefits) may be provided, the value of the uncrystallised rights under the arrangement is the greater of—
 - (a) their value calculated under subsection (6) (on the assumption that cash balance benefits are provided), and
 - (b) their value calculated under subsection (7) (on the assumption that other money purchase benefits are provided).

Textual Amendments

- F1** Words in s. 182(3)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 70\(2\)\(a\)](#)
- F2** Words in s. 182(3)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 70\(2\)\(b\)](#)
- F3** Words in s. 182(5) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 70\(3\)](#)

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Modifications etc. (not altering text)

- C11** Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **16**
- C12** S. 182 modified (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), s. **68(2)(6)**
- C13** S. 182 restricted (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), s. **68(1)(6)**

Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

183 Effect of unauthorised borrowing: money purchase arrangements

- (1) Subsection (2) applies if a registered pension scheme borrows in respect of a money purchase arrangement an amount which it is not authorised to borrow under section 182.
- (2) The pension scheme is to be treated as having made a scheme chargeable payment—
- (a) if subsection (3) applies, of an amount calculated in accordance with subsection (4), and
- (b) otherwise, of the amount borrowed.
- (3) This subsection applies if, immediately before the amount is borrowed—

$$APB < \frac{VA}{2}$$

- (4) If subsection (3) applies, the amount of the scheme chargeable payment is—

$$APB + AB - \frac{VA}{2}$$

- (5) In subsections (3) and (4)—
- APB is the aggregate of the amounts previously borrowed in respect of the arrangement (excluding any amounts which have been repaid),
- AB is the amount borrowed, and
- VA is the value of the arrangement, calculated in accordance with section 182(3), immediately before the amount is borrowed.

Modifications etc. (not altering text)

- C11** Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **16**
- C14** S. 183 modified (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), s. **68(2)(6)**

Commencement Information

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

Status: Point in time view as at 19/07/2011.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Borrowing. (See end of Document for details)

184 Unauthorised borrowing: other arrangements

- (1) A registered pension scheme is not authorised to borrow an amount in respect of any arrangement which is not a money purchase arrangement unless the scheme borrowing condition is met.
- (2) The scheme borrowing condition is met if—

$$(APB + PB) < \frac{AARA}{2}$$

where—

APB is the aggregate of the amounts previously borrowed by the pension scheme in respect of arrangements which are not money purchase arrangements (excluding any amounts which have been repaid),

PB is the amount proposed to be borrowed by the pension scheme, and

AARA is the aggregate amount of the relevant sums and assets.

- (3) The aggregate amount of the relevant sums and assets is the aggregate of—
 - (a) the amount of the sums held for the purposes of such of the arrangements under the pension scheme as are not money purchase arrangements, and
 - (b) the market value of the assets held for the purposes of such of the arrangements under the pension scheme as are not money purchase arrangements.

Modifications etc. (not altering text)

C11 Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 16

Commencement Information

I3 Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

185 Effect of unauthorised borrowing: other arrangements

- (1) Subsection (2) applies if a registered pension scheme borrows, in respect of an arrangement which is not a money purchase arrangement, an amount which it is not authorised to borrow under section 184.
- (2) The pension scheme is to be treated as having made a scheme chargeable payment—
 - (a) if subsection (3) applies, of an amount calculated in accordance with subsection (4), and
 - (b) otherwise, of the amount borrowed.
- (3) This subsection applies if, immediately before the amount is borrowed—

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$$APB < \frac{AARA}{2}$$

(4) If subsection (3) applies, the amount of the scheme chargeable payment is—

$$APB + AB - \frac{AARA}{2}$$

(5) In subsections (3) and (4)—

APB is the aggregate of the amounts previously borrowed by the pension scheme in respect of arrangements which are not money purchase arrangements (excluding any amounts which have been repaid),

AB is the amount borrowed, and

AARA is the aggregate amount of the relevant sums and assets, calculated in accordance with section 184(3), immediately before the amount is borrowed.

Modifications etc. (not altering text)

C11 Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 16

Commencement Information

I4 Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

Status:

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Changes to legislation:

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