



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Financial support directions

43 Financial support directions

- (1) This section applies in relation to an occupational pension scheme other than—
 - (a) a money purchase scheme, or
 - (b) a prescribed scheme or a scheme of a prescribed description.
- (2) The Regulator may issue a financial support direction under this section in relation to such a scheme if the Regulator is of the opinion that the employer in relation to the scheme—
 - (a) is a service company, or
 - (b) is insufficiently resourced,at a time determined by the Regulator which falls within subsection (9) (“the relevant time”).
- (3) A financial support direction in relation to a scheme is a direction which requires the person or persons to whom it is issued to secure—
 - (a) that financial support for the scheme is put in place within the period specified in the direction,
 - (b) that thereafter that financial support or other financial support remains in place while the scheme is in existence, and
 - (c) that the Regulator is notified in writing of prescribed events in respect of the financial support as soon as reasonably practicable after the event occurs.
- (4) A financial support direction in relation to a scheme may be issued to one or more persons.

Status: Point in time view as at 30/03/2009.

Changes to legislation: Pensions Act 2004, Cross Heading: Financial support directions is up to date with all changes known to be in force on or before 09 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)

- (5) But the Regulator may issue such a direction to a person only if—
- (a) the person is at the relevant time a person falling within subsection (6), and
 - (b) the Regulator is of the opinion that it is reasonable to impose the requirements of the direction on that person.
- (6) A person falls within this subsection if the person is—
- (a) the employer in relation to the scheme,
 - (b) an individual who—
 - (i) is an associate of an individual who is the employer, but
 - (ii) is not an associate of that individual by reason only of being employed by him, or
 - (c) a person, other than an individual, who is connected with or an associate of the employer.
- (7) The Regulator, when deciding for the purposes of subsection (5)(b) whether it is reasonable to impose the requirements of a financial support direction on a particular person, must have regard to such matters as the Regulator considers relevant including, where relevant, the following matters—
- (a) the relationship which the person has or has had with the employer (including, where the employer is a company within the meaning of subsection (11) of section 435 of the Insolvency Act 1986 (c. 45), whether the person has or has had control of the employer within the meaning of subsection (10) of that section),
 - (b) in the case of a person falling within subsection (6)(b) or (c), the value of any benefits received directly or indirectly by that person from the employer,
 - (c) any connection or involvement which the person has or has had with the scheme,
 - (d) the financial circumstances of the person, and
 - (e) such other matters as may be prescribed.
- (8) A financial support direction must identify all the persons to whom the direction is issued.
- (9) A time falls within this subsection if it is a time which falls within a prescribed period which ends with the determination by the Regulator to exercise the power to issue the financial support direction in question.
- (10) For the purposes of subsection (3), a scheme is in existence until it is wound up.
- (11) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a notice given by virtue of subsection (3)(c).
- This is subject to section 311 (protected items).

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, 16

Status: Point in time view as at 30/03/2009.

Changes to legislation: Pensions Act 2004, Cross Heading: Financial support directions is up to date with all changes known to be in force on or before 09 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)

- C3** S. 43 excluded (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), [Sch. 3 para. 11\(b\)\(ii\)](#)
- C4** S. 43 modified (30.3.2009 at 8.00 a.m.) by [The Amendments to Law \(Resolution of Dunfermline Building Society\) Order 2009 \(S.I. 2009/814\)](#), [art. 5](#)

Commencement Information

- I1** S. 43(1)(a)(2)(3)(a)(b)(4)-(6)(7)(a)-(d)(8)(10)(11) in force in so far as not already in force except subsection (7)(e) at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)
- I2** S. 43(1)(b)(3)(c)(9) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), [art. 2\(3\)](#), [Sch. Pt. 3](#)

[^{F1}43A Financial support directions: transfer of members of the scheme

- (1) This section applies where—
- the Regulator is of the opinion by reference to any time that the conditions in section 43 for issuing a financial support direction are met in relation to a scheme (“the initial scheme”) in relation to which that section applies (or, but for any transfer falling within paragraph (b), would be met), and
 - the accrued rights of at least two persons who were members of the initial scheme are transferred at any subsequent time to one or more work-based pension schemes.
- (2) The Regulator may issue a financial support direction under that section in relation to any transferee scheme (and, accordingly, any reference in section 45 or any of sections 47 to 50 to the scheme is to the transferee scheme).
- (3) The Regulator may also issue a direction to the trustees or managers of any transferee scheme requiring them to take specified steps to secure that the financial support is put in place for the benefit of the members of the transferee scheme who were members of the initial scheme.
- (4) If the trustees or managers fail to comply with a direction issued to them under subsection (3), section 10 of the 1995 Act (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

Textual Amendments

- F1** Ss. 43A, 43B inserted (with effect in accordance with Sch. 9 para. 15(3) of the amending Act) by [Pensions Act 2008 \(c. 30\)](#), [s. 149\(2\)\(3\)](#), [Sch. 9 para. 10](#) (with [Sch. 9 para. 16\(2\)](#))

43B Section 43A: supplemental

- (1) In section 43A a “transferee scheme”, in relation to any time, means any work-based pension scheme—
- to which the accrued rights of at least two persons who were members of the initial scheme have been transferred, and
 - of which any of those persons are members at that time.
- (2) For the purposes of section 43A(1) and subsection (1) above it does not matter whether any rights are transferred to a work-based pension scheme directly from the initial scheme or following one or more other transfers to other work-based pension schemes.

Status: Point in time view as at 30/03/2009.

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- (3) For the purposes of section 43A and this section references to the transfer of accrued rights of members of a pension scheme to another pension scheme include references to the extinguishing of those accrued rights in consequence of the obligation to make a payment, or transfer an asset, to that other scheme.
- (4) In section 43A and this section—
 - (a) “the 1995 Act” means the Pensions Act 1995;
 - (b) “work-based pension scheme” has the meaning given by section 5(3);
 - (c) any reference to rights which have accrued is to be read in accordance with section 67A(6) and (7) of the 1995 Act (reading any reference in those subsections to a subsisting right as a reference to a right which has accrued).
- (5) Section 43A applies even if the initial scheme—
 - (a) is wound up as a result of any transfer falling within subsection (1)(b) of that section, or
 - (b) otherwise ceases to exist at the time of the transfer or at any subsequent time.
- (6) Accordingly, in any such case, in subsection (1) of that section—
 - (a) the reference to a scheme to which section 43 applies is a reference to a scheme which was such a scheme before the transfer;
 - (b) the reference to any conditions in section 43 being met is a reference to any conditions in that section that, but for the transfer, would have been met in relation to the scheme.
- (7) Nothing in section 43A or this section is to be read as preventing the Regulator from issuing a financial support direction in relation to the initial scheme.
- (8) Regulations may make provision applying, with or without modifications, any provision made by section 43A or this section in relation to any scheme or other arrangement in any case where the accrued rights of persons who were members of the initial scheme are transferred or extinguished directly or indirectly in consequence of or otherwise in connection with—
 - (a) the making of any payment at any time to or for the benefit of the scheme or other arrangement,
 - (b) the transfer of any asset at any time to or for the benefit of the scheme or other arrangement,
 - (c) the discharge (wholly or partly) at any time of any liability incurred by or on behalf of the scheme or other arrangement, or
 - (d) the incurring at any time of any obligation to do any act falling within paragraph (a) to (c).
- (9) Any reference in subsection (8)(a) to (d) to the doing of an act of any description at any time in relation to the scheme or other arrangement includes a reference to the doing of an act of that description at any previous time in relation to any other scheme or other arrangement.
- (10) Regulations under subsection (8) may—
 - (a) make provision having effect in relation to any case where rights are transferred or extinguished on or after the date on which the Secretary of State publishes a statement of the intention to make the regulations; and

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- (b) without prejudice to section 315(5), make consequential provision applying with modifications any provision of this Act which relates to financial support directions under section 43.]

Textual Amendments

- F1** Ss. 43A, 43B inserted (with effect in accordance with Sch. 9 para. 15(3) of the amending Act) by [Pensions Act 2008 \(c. 30\), s. 149\(2\)\(3\)](#), **Sch. 9 para. 10** (with [Sch. 9 para. 16\(2\)](#))

44 Meaning of “service company” and “insufficiently resourced”

- (1) This section applies for the purposes of section 43 (financial support directions).
- (2) An employer (“E”) is a “service company” at the relevant time if—
- E is a company within the meaning given by section 735(1) of the Companies Act 1985 (c. 6),
 - E is a member of a group of companies, and
 - E’s turnover, as shown in the latest available accounts for E prepared in accordance with section 226 of that Act, is solely or principally derived from amounts charged for the provision of the services of employees of E to other members of that group.
- (3) The employer in relation to a scheme is insufficiently resourced at the relevant time if—
- at that time the value of the resources of the employer is less than the amount which is a prescribed percentage of the estimated section 75 debt in relation to the scheme, and
 - ^{F2}(b) condition A or B is met.]
- ^{F3}(3A) Condition A is met if—
- there is at that time a person who falls within section 43(6)(b) or (c), and
 - the value at that time of that person's resources is not less than the relevant deficit, that is to say the amount which is the difference between—
 - the value of the resources of the employer, and
 - the amount which is the prescribed percentage of the estimated section 75 debt.
- (3B) Condition B is met if—
- there are at that time two or more persons who—
 - fall within section 43(6)(b) or (c), and
 - are connected with, or associates of, each other, and
 - the aggregate value at that time of the resources of the persons who fall within paragraph (a) (or any of them) is not less than the relevant deficit.]
- (4) For the purposes of ^{F4}subsections (3) to (3B)] —
- what constitutes the resources of a person is to be determined in accordance with regulations, and
 - the value of a person’s resources is to be determined, calculated and verified in a prescribed manner.

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- (5) In this section the “estimated section 75 debt”, in relation to a scheme, means the amount which the Regulator estimates to be the amount of the debt which would become due from the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (c. 26) (deficiencies in the scheme assets) if—
- (a) subsection (2) of that section applied, and
 - (b) the time designated by the trustees or managers of the scheme for the purposes of that subsection were the relevant time.
- (6) When calculating the estimated section 75 debt in relation to a scheme under subsection (5), the amount of any debt due at the relevant time from the employer under section 75 of the Pensions Act 1995 (c. 26) is to be disregarded.
- (7) In this section “the relevant time” has the same meaning as in section 43.

Textual Amendments

- F2** S. 44(3)(b) substituted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Pensions Act 2008 \(c. 30\), s. 149\(2\)\(3\), Sch. 9 para. 14\(1\)](#)
- F3** S. 44(3A)(3B) inserted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Pensions Act 2008 \(c. 30\), s. 149\(2\)\(3\), Sch. 9 para. 14\(2\)](#)
- F4** Words in s. 44(4) substituted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Pensions Act 2008 \(c. 30\), s. 149\(2\)\(3\), Sch. 9 para. 14\(3\)](#)

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\), regs. 1\(1\), 4, Sch. 1](#)
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\), regs. 1, 15, 16](#)

Commencement Information

- I3** S. 44(1)(2)(3)(b)(5)-(7) in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)
- I4** S. 44(3)(a)(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275, art. 2\(3\), Sch. Pt. 3](#)

45 Meaning of “financial support”

- (1) For the purposes of section 43 (financial support directions), “financial support” for a scheme means one or more of the arrangements falling within subsection (2) the details of which are approved in a notice issued by the Regulator.
- (2) The arrangements falling within this subsection are—
- (a) an arrangement whereby, at any time when the employer is a member of a group of companies, all the members of the group are jointly and severally liable for the whole or part of the employer’s pension liabilities in relation to the scheme;
 - (b) an arrangement whereby, at any time when the employer is a member of a group of companies, a company (within the meaning given in section 736 of the Companies Act 1985 (c. 6)) which meets prescribed requirements and

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- is the holding company of the group is liable for the whole or part of the employer's pension liabilities in relation to the scheme;
- (c) an arrangement which meets prescribed requirements and whereby additional financial resources are provided to the scheme;
 - (d) such other arrangements as may be prescribed.
- (3) The Regulator may not issue a notice under subsection (1) approving the details of one or more arrangements falling within subsection (2) unless it is satisfied that the arrangement is, or the arrangements are, reasonable in the circumstances.
- (4) In subsection (2), “the employer’s pension liabilities” in relation to a scheme means—
- (a) the liabilities for any amounts payable by or on behalf of the employer towards the scheme (whether on his own account or otherwise) in accordance with a schedule of contributions under section 227, and
 - (b) the liabilities for any debt which is or may become due to the trustees or managers of the scheme from the employer whether by virtue of section 75 of the Pensions Act 1995 (deficiencies in the scheme assets) or otherwise.

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, **16**

Commencement Information

- I5** S. 45(1)(2)(a)(c)(d)(3)(4) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I6** S. 45(2)(b) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

46 Financial support directions: clearance statements

- (1) An application may be made to the Regulator under this section for the issue of a clearance statement within paragraph (a), (b) or (c) of subsection (2) in relation to circumstances described in the application and relating to an occupational pension scheme.
- (2) A clearance statement is a statement, made by the Regulator, that in its opinion in the circumstances described in the application—
- (a) the employer in relation to the scheme would not be a service company for the purposes of section 43,
 - (b) the employer in relation to the scheme would not be insufficiently resourced for the purposes of that section, or
 - (c) it would not be reasonable to impose the requirements of a financial support direction, in relation to the scheme, on the applicant.
- (3) Where an application is made under this section, the Regulator—
- (a) may request further information from the applicant;
 - (b) may invite the applicant to amend the application to modify the circumstances described.

Status: Point in time view as at 30/03/2009.

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- (4) Where an application is made under this section, the Regulator must as soon as reasonably practicable—
 - (a) determine whether to issue the clearance statement, and
 - (b) where it determines to do so, issue the statement.
- (5) A clearance statement issued under this section binds the Regulator in relation to the exercise of the power to issue a financial support direction under section 43 in relation to the scheme to the applicant unless—
 - (a) the circumstances in relation to which the exercise of the power under that section arises are not the same as the circumstances described in the application, and
 - (b) the difference in those circumstances is material to the exercise of the power.

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, 16

Commencement Information

- I7** S. 46 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

47 Contribution notices where non-compliance with financial support direction

- (1) This section applies where there is non-compliance with a financial support direction issued in relation to a scheme under section 43.
- (2) The Regulator may issue a notice to any one or more of the persons to whom the direction was issued stating that the person is under a liability to pay to the trustees or managers of the scheme the sum specified in the notice (a “contribution notice”).
- (3) The Regulator may issue a contribution notice to a person only if the Regulator is of the opinion that it is reasonable to impose liability on the person to pay the sum specified in the notice.
- (4) The Regulator, when deciding for the purposes of subsection (3) whether it is reasonable to impose liability on a particular person to pay the sum specified in the notice, must have regard to such matters as the Regulator considers relevant including, where relevant, the following matters—
 - (a) whether the person has taken reasonable steps to secure compliance with the financial support direction,
 - (b) the relationship which the person has or has had with the employer (including, where the employer is a company within the meaning of subsection (11) of section 435 of the Insolvency Act 1986 (c. 45), whether the person has or has had control of the employer within the meaning of subsection (10) of that section),
 - (c) in the case of a person to whom the financial support direction was issued as a person falling within section 43(6)(b) or (c), the value of any benefits received directly or indirectly by that person from the employer,

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- (d) the relationship which the person has or has had with the parties to any arrangements put in place in accordance with the direction (including, where any of those parties is a company within the meaning of subsection (11) of section 435 of the Insolvency Act 1986, whether the person has or has had control of that company within the meaning of subsection (10) of that section),
 - (e) any connection or involvement which the person has or has had with the scheme,
 - (f) the financial circumstances of the person, and
 - (g) such other matters as may be prescribed.
- (5) A contribution notice may not be issued under this section in respect of non-compliance with a financial support direction in relation to a scheme where the Board of the Pension Protection Fund has assumed responsibility for the scheme in accordance with Chapter 3 of Part 2 (pension protection).

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, 16

Commencement Information

- I8** S. 47(1)-(3)(4)(a)-(f)(5) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

48 The sum specified in a section 47 contribution notice

- (1) The sum specified by the Regulator in a contribution notice under section 47 may be either the whole or a specified part of the shortfall sum in relation to the scheme.
- (2) The shortfall sum in relation to a scheme is—
- (a) in a case where, at the time of non-compliance, a debt was due from the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (c. 26) (“the 1995 Act”) (deficiencies in the scheme assets), the amount which the Regulator estimates to be the amount of that debt at that time, and
 - (b) in a case where, at the time of non-compliance, no such debt was due, the amount which the Regulator estimates to be the amount of the debt under section 75 of the 1995 Act which would become due if—
 - (i) subsection (2) of that section applied, and
 - (ii) the time designated by the trustees or managers of the scheme for the purposes of that subsection were the time of non-compliance.
- (3) For the purposes of this section “the time of non-compliance” means—
- (a) in the case of non-compliance with paragraph (a) of subsection (3) of section 43 (financial support directions), the time immediately after the expiry of the period specified in the financial support direction for putting in place the financial support,
 - (b) in the case of non-compliance with paragraph (b) of that subsection, the time when financial support for the scheme ceased to be in place,

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- (c) in the case of non-compliance with paragraph (c) of that subsection, the time when the prescribed event occurred in relation to which there was the failure to notify the Regulator, or
- (d) where more than one of paragraphs (a) to (c) above apply, whichever of the times specified in the applicable paragraphs the Regulator determines.

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, 16

Commencement Information

- I9** S. 48 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

49 Content and effect of a section 47 contribution notice

- (1) This section applies where a contribution notice is issued to a person under section 47.
- (2) The contribution notice must—
 - (a) contain a statement of the matters which it is asserted constitute the non-compliance with the financial support direction in respect of which the notice is issued, and
 - (b) specify the sum which the person is stated to be under a liability to pay.
- (3) The sum specified in the notice is to be treated as a debt due from the person to the trustees or managers of the scheme.
- (4) The Regulator may, on behalf of the trustees or managers of the scheme, exercise such powers as the trustees or managers have to recover the debt.
- (5) But during any assessment period (within the meaning of section 132) in relation to the scheme, the rights and powers of the trustees or managers of the scheme in relation to any debt due to them by virtue of a contribution notice, are exercisable by the Board of the Pension Protection Fund to the exclusion of the trustees or managers and the Regulator.
- (6) Where, by virtue of subsection (5), any amount is paid to the Board in respect of a debt due by virtue of a contribution notice, the Board must pay the amount to the trustees or managers of the scheme.
- (7) The contribution notice must identify any other persons to whom contribution notices have been or are issued in respect of the non-compliance in question and the sums specified in each of those notices.
- (8) Where the contribution notice so specifies, the person to whom the notice is issued (“P”) is to be treated as jointly and severally liable for the debt with any persons specified in the notice who are persons to whom corresponding contribution notices are issued.
- (9) For the purposes of subsection (8), a corresponding contribution notice is a notice which—

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- (a) is issued in respect of the same non-compliance with the financial support direction as the non-compliance in respect of which P’s contribution notice is issued,
 - (b) specifies the same sum as is specified in P’s contribution notice, and
 - (c) specifies that the person to whom the contribution notice is issued is jointly and severally liable with P, or with P and other persons, for the debt in respect of that sum.
- (10) A debt due by virtue of a contribution notice is not to be taken into account for the purposes of section 75(2) and (4) of the Pensions Act 1995 (c. 26) (deficiencies in the scheme assets) when ascertaining the amount or value of the assets or liabilities of a scheme.

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, **16**

Commencement Information

- I10** S. 49 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

50 Section 47 contribution notice: relationship with employer debt

- (1) This section applies where a contribution notice is issued to a person (“P”) under section 47 and condition A or B is met.
- (2) Condition A is met if, at the time at which the contribution notice is issued, there is a debt due from the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (“the 1995 Act”) (deficiencies in the scheme assets).
- (3) Condition B is met if, after the contribution notice is issued but before the whole of the debt due by virtue of the notice is recovered, a debt becomes due from the employer to the trustees or managers of the scheme under section 75 of the 1995 Act.
- (4) The Regulator may issue a direction to the trustees or managers of the scheme not to take any or any further steps to recover the debt due to them under section 75 of the 1995 Act pending the recovery of all or a specified part of the debt due to them by virtue of the contribution notice.
- (5) If the trustees or managers fail to comply with a direction issued to them under subsection (4), section 10 of the 1995 Act (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.
- (6) Any sums paid—
 - (a) to the trustees or managers of the scheme in respect of any debt due to them by virtue of the contribution notice, or
 - (b) to the Board of the Pension Protection Fund in respect of any debt due to it by virtue of the contribution notice (where it has assumed responsibility for the scheme in accordance with Chapter 3 of Part 2 (pension protection)),

Status: Point in time view as at 30/03/2009.

Changes to legislation: Pensions Act 2004, Cross Heading: Financial support directions is up to date with all changes known to be in force on or before 09 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)

are to be treated as reducing the amount of the debt due to the trustees or managers or, as the case may be, to the Board under section 75 of the 1995 Act.

- (7) Where a sum is paid to the trustees or managers of the scheme or, as the case may be, to the Board in respect of the debt due under section 75 of the 1995 Act, P may make an application under this subsection to the Regulator for a reduction in the amount of the sum specified in P's contribution notice.
- (8) An application under subsection (7) must be made as soon as reasonably practicable after the sum is paid to the trustees or managers or, as the case may be, to the Board in respect of the debt due under section 75 of the 1995 Act.
- (9) Where such an application is made to the Regulator, the Regulator may, if it is of the opinion that it is appropriate to do so—
- (a) reduce the amount of the sum specified in P's contribution notice by an amount which it considers reasonable, and
 - (b) issue a revised contribution notice specifying the revised sum.
- (10) For the purposes of subsection (9), the Regulator must have regard to such matters as the Regulator considers relevant including, where relevant, the following matters—
- (a) the amount paid in respect of the debt due under section 75 of the 1995 Act since the contribution notice was issued,
 - (b) any amounts paid in respect of the debt due by virtue of that contribution notice,
 - (c) whether contribution notices have been issued to other persons in respect of the same non-compliance with the financial support direction in question as the non-compliance in respect of which P's contribution notice was issued,
 - (d) where such contribution notices have been issued, the sums specified in each of those notices and any amounts paid in respect of the debt due by virtue of those notices,
 - (e) whether P's contribution notice specifies that P is jointly and severally liable for the debt with other persons, and
 - (f) such other matters as may be prescribed.
- (11) Where—
- (a) P's contribution notice specifies that P is jointly and severally liable for the debt with other persons, and
 - (b) a revised contribution notice is issued to P under subsection (9) specifying a revised sum,

the Regulator must also issue revised contribution notices to those other persons specifying the revised sum and their joint and several liability with P for the debt in respect of that sum.

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15**, 16

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Commencement Information

I11 S. 50(1)-(9)(10)(a)-(e)(11) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

51 Sections 43 to 50: interpretation

(1) In sections 43 to 50—

“group of companies” means a holding company and its subsidiaries within the meaning given by section 736(1) of the Companies Act 1985 (c. 6) and “member” in relation to such a group is to be construed accordingly;

“holding company” has the meaning given by section 736(1) of that Act.

(2) For the purposes of those sections—

- (a) references to a debt due under section 75 of the Pensions Act 1995 (c. 26) include a contingent debt under that section, and
- (b) references to the amount of such a debt include the amount of such a contingent debt.

(3) For the purposes of those sections—

- (a) section 249 of the Insolvency Act 1986 (c. 45) (connected persons) applies as it applies for the purposes of any provision of the first Group of Parts of that Act,
- (b) section 435 of that Act (associated persons) applies as it applies for the purposes of that Act, and
- (c) section 74 of the Bankruptcy (Scotland) Act 1985 (c. 66) (associated persons) applies as it applies for the purposes of that Act.

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, [Sch. 1](#)
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, [15](#), [16](#)

Commencement Information

I12 S. 51 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

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Pensions Act 2004, Cross Heading: Financial support directions is up to date with all changes known to be in force on or before 09 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.