



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 7

MISCELLANEOUS

Backdating the winding up of eligible schemes

219 Backdating the winding up of eligible schemes

- (1) Subsection (3) applies where—
- (a) a qualifying insolvency event occurs in relation to the employer in relation to an eligible scheme, and
 - (b) the winding up of the scheme begins at or after the time of that event but not later than the first of the following events in relation to the scheme—
 - (i) a scheme failure notice or a withdrawal notice issued under section 122(2) in relation to the scheme becoming binding,
 - (ii) a withdrawal notice issued under section 148 in relation to the scheme becoming binding, or
 - (iii) a notice issued under section 122(4) becoming binding in a case where section 148 does not apply.
- (2) Subsection (3) also applies where—
- (a) the trustees or managers of an eligible scheme—
 - (i) make an application to the Board under subsection (1) of section 129, or
 - (ii) receive a notice from the Board under subsection (5)(a) of that section, and

Status: This is the original version (as it was originally enacted).

- (b) the winding up of the scheme begins—
 - (i) at or after the time the application is made or notice is received, but
 - (ii) not later than a scheme failure notice or a withdrawal notice issued under section 130(2) or (3) in relation to the scheme becoming binding.
- (3) The winding up of the scheme is to be taken as beginning immediately before the event within subsection (1)(a) or, as the case may be, subsection (2)(a) if—
 - (a) the winding up is in pursuance of an order of the Regulator under section 11 of the Pensions Act 1995 (c. 26) directing the winding up of the scheme, or
 - (b) in any other case, the trustees or managers of the scheme so determine.
- (4) In a case where subsection (3) applies, the Regulator may by order direct any person specified in the order—
 - (a) to take such steps as are so specified as it considers are necessary as a result of the winding up of the scheme beginning in accordance with that subsection, and
 - (b) to take those steps within a period specified in the order.
- (5) If the trustees or managers of a scheme fail to comply with a direction to them contained in an order under subsection (4), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.
- (6) That section also applies to any other person who, without reasonable excuse, fails to comply with a direction to him contained in an order under subsection (4).
- (7) For the purposes of this section “qualifying insolvency event” has the same meaning as in section 127.
- (8) Subsection (4) of section 128 applies for the purposes of subsection (2) of this section as it applies for the purposes of subsection (1) of that section.
- (9) This section is to be read subject to section 135 (which restricts the winding up of an eligible scheme during an assessment period).