



Pensions Act 2004

2004 CHAPTER 35

PART 3

SCHEME FUNDING

Scheme funding

231 Powers of the Regulator

- (1) The powers conferred by this section are exercisable where it appears to the Regulator with respect to a scheme (as a result of a report made to it or otherwise)—
- (a) that the trustees or managers have failed to comply with the requirements of section 223 with respect to the preparation or revision of a statement of funding principles;
 - (b) that the trustees or managers have failed to obtain an actuarial valuation as required by section 224(1);
 - (c) that the actuary is unable, on an actuarial valuation required by section 224(1), to certify the calculation of the scheme's technical provisions;
 - (d) that the trustees or managers have failed to comply with the requirements of section 226 with respect to the preparation or revision of a recovery plan;
 - (e) that the trustees or managers have failed to comply with the requirements of section 227 with respect to the preparation or revision of a schedule of contributions;
 - (f) that the actuary is unable to certify a schedule of contributions (see section 227(6));
 - (g) that the employer has failed to make payments in accordance with the schedule of contributions, or that are required of him by virtue of section 228(3), and the failure is of material significance;
 - (h) that the trustees or managers have been unable to reach agreement with the employer within the prescribed time as to a matter in relation to which such agreement is required (see section 229(5)).

Status: This is the original version (as it was originally enacted).

- (2) In any of those circumstances the Regulator may by order exercise all or any of the following powers—
- (a) it may modify the scheme as regards the future accrual of benefits;
 - (b) it may give directions as to—
 - (i) the manner in which the scheme’s technical provisions are to be calculated, including the methods and assumptions to be used in calculating the scheme’s technical provisions, or
 - (ii) the period within which, and manner in which, any failure to meet the statutory funding objective is to be remedied;
 - (c) it may impose a schedule of contributions specifying—
 - (i) the rates of contributions payable towards the scheme by or on behalf of the employer and the active members of the scheme, and
 - (ii) the dates on or before which such contributions are to be paid.
- (3) No modification may be made under subsection (2)(a) that on taking effect would or might adversely affect any subsisting right of—
- (a) any member of the scheme, or
 - (b) any survivor of a member of the scheme.
- For this purpose “subsisting right” and “survivor” have the meanings given by section 67A of the Pensions Act 1995.
- (4) In exercising any of the powers conferred by this section the Regulator must comply with any prescribed requirements.
- (5) The powers conferred by this section are in addition to any other powers exercisable by the Regulator under this Act or the Pensions Act [1995 \(c. 26\)](#).