



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Financial support directions

[^{F1}43B Section 43A: supplemental

- (1) In section 43A a “transferee scheme”, in relation to any time, means any work-based pension scheme—
 - (a) to which the accrued rights of at least two persons who were members of the initial scheme have been transferred, and
 - (b) 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.
- (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

Status: Point in time view as at 01/08/2022.

Changes to legislation: Pensions Act 2004, Section 43B is up to date with all changes known to be in force on or before 21 July 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)

- (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
 - (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))

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