

Pensions (Winding-up) Bill

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Provide for the distribution of the assets of pension schemes on winding-up and the duties of trustees in relation thereto; to make provision relating to the fees chargeable in relation to the process of winding-up a pension scheme; to establish arrangements for a compensation scheme for certain members of occupational schemes, including for the establishment of a levy on pension schemes; and to establish a review of the status of pensions-related liabilities in insolvency; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Repeal of section 73 of the Pensions Act 1995

Section 73 of the Pensions Act 1995 (c. 26) is hereby repealed.

2 Order of assets

- (1) This section applies, where a salary related occupational pension scheme to which section 56 of the Pensions Act 1995 applies is being wound up, to determine the order in which the assets of the scheme are to be applied towards satisfying the liabilities in respect of pensions and other benefits (including increases in pensions). 5
- (2) The assets of the scheme must be applied first towards satisfying the amounts of the liabilities mentioned in paragraph (a) of subsection (3); and once those liabilities are satisfied, the remaining assets must be applied towards satisfying the amounts of the liabilities mentioned in later paragraphs of subsection (3) in proportion to the amount by which the remaining assets of the scheme satisfy the liabilities in respect of pensions and other benefits (including increases in pensions) under section 56 of the Pensions Act 1995. 10 15
- (3) The liabilities referred to in subsection (2) are—
- (a) where a person's entitlement to payment of pension or other benefit has arisen, liability for that pension or benefit and for any pension or other benefits which will be payable to dependants of that person on his

- death (but excluding increases to pensions), subject to a maximum annual income of an amount to be determined by the Secretary of State;
- (b) any liability for pensions or other benefits which, in the opinion of the trustees, are derived from the payment by any member of the scheme of voluntary contributions; 5
- (c) where a person's entitlement to payment of pension or other benefit has arisen, liability for that pension or benefit and for any pension or other benefit which will be payable to dependants of that person on his death (but excluding increases to pensions) in excess of that entitlement under paragraph (a) of subsection (3); 10
- (d) any liability for –
- (i) pensions or other benefits which have accrued to or in respect of any members of the scheme (but excluding increases to pensions), or
- (ii) (in respect of members with less than two years' pensionable service) the return of contributions; and 15
- (e) any liability for increases to pensions referred to in paragraphs (a), (c) and (d);
- and, for the purposes of subsection (2), the amounts of the liabilities mentioned in paragraphs (a) to (e) are to be taken to be the amounts calculated and verified in the prescribed manner. 20
- (4) To the extent that any liabilities, as calculated in accordance with the rules of the scheme, have not been satisfied under subsection (2), any remaining assets of the scheme must then be applied towards satisfying those liabilities (as so calculated) in the order provided for in the rules of the scheme. 25
- (5) If the scheme confers power on any person other than the trustees or managers to apply the assets of the scheme in respect of pensions or other benefits (including increases in pensions), it cannot be exercised by that person but may be exercised instead by the trustees or managers.
- (6) If this section is not complied with- 30
- (a) section 3 of the Pensions Act 1995 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
- (b) section 10 of the Pensions Act 1995 applies to any trustee or manager who has failed to take all such steps.
- (7) Regulations may modify subsection (3). 35
- (8) This Act does not apply to an occupational pension scheme falling within a prescribed class or description.
- (9) This Act shall have effect with prescribed modifications in cases where part of a salary related occupational pension scheme to which section 56 of the Pensions Act 1995 applies is being wound up. 40

3 Review of status of pensions related debt

The Secretary of State shall conduct a review of the status of pensions related debt on insolvency of the sponsoring employer and shall publish the review within 6 months of this Act receiving Royal Assent.

4 Fees to advisers

The Secretary of State may by regulation give an agency power to assess and direct what costs should be paid in connection with the winding-up of a pension scheme.

5 Levy on unclaimed assets

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The Secretary of State shall within 6 months of this Act receiving Royal Assent lay before both House of Parliament proposals for legislation to introduce a levy on unclaimed assets to fund a compensation scheme for certain members of occupational pension schemes as may be defined by future legislation or regulation.

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6 Levy on occupational pension schemes

The Secretary of State shall within 6 months of this Act receiving Royal Assent lay before both Houses of Parliament proposals for legislation to introduce a levy scheme on occupational pension schemes to compensate certain members of occupational schemes as may be defined by future legislation or regulation.

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7 Commencement

This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

8 Extent

This Act does not extend to Northern Ireland.

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9 Short title

This Act may be cited as the Pensions (Winding-up) Act 2003.

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To provide for the distribution of the assets of pension schemes on winding-up and the duties of trustees in relation thereto; to make provision relating to the fees chargeable in relation to the process of winding-up a pension scheme; to establish arrangements for a compensation scheme for certain members of occupational schemes, including for the establishment of a levy on pension schemes; and to establish a review of the status of pensions-related liabilities in insolvency; and for connected purposes.

*Presented by Mr Frank Field,
supported by
Derek Wyatt, Kevin Brennan,
Mr Vernon Coaker, David Wright
and Mr Andrew Miller.*

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