



Pensions Act 2004

2004 CHAPTER 35

PART 2

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 3

PENSION PROTECTION

Circumstances in which Board assumes responsibility for eligible schemes

128 Duty to assume responsibility for schemes following application or notification

- (1) This section applies where, in relation to an eligible scheme, the trustees or managers of the scheme—
 - (a) make an application under subsection (1) of section 129 (a “section 129 application”), or
 - (b) receive a notice from the Board under subsection (5)(a) of that section (a “section 129 notification”).
- (2) The Board must assume responsibility for the scheme in accordance with this Chapter if—
 - (a) the value of the assets of the scheme at the relevant time was less than the amount of the protected liabilities at that time (see sections 131 and 143),
 - (b) after the relevant time the Board issues a scheme failure notice under section 130(2) in relation to the scheme and that notice becomes binding, and
 - (c) a withdrawal event has not occurred in relation to the scheme in respect of a withdrawal notice which has been issued during the period—
 - (i) beginning with the making of the section 129 application or, as the case may be, the receipt of the section 129 notification, and
 - (ii) ending immediately before the issuing of the scheme failure notice under section 130(2),

Status: This is the original version (as it was originally enacted).

and the occurrence of such a withdrawal event in respect of a withdrawal notice issued during that period is not a possibility (see section 149).

- (3) In subsection (2)—
- (a) the reference in paragraph (a) to the assets of the scheme is a reference to those assets excluding any assets representing the value of any rights in respect of money purchase benefits under the scheme rules, and
 - (b) “the relevant time” means the time immediately before the section 129 application was made or, as the case may be, the section 129 notification was received.
- (4) An application under section 129(1) or notification under section 129(5)(a) is to be disregarded for the purposes of subsection (1) if it is made or given during an assessment period (see section 132) in relation to the scheme which began before the application was made or notification was given.
- (5) This section is subject to sections 146 and 147 (cases where Board must refuse to assume responsibility for a scheme).