



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 2

#### THE BOARD OF THE PENSION PROTECTION FUND

### CHAPTER 3

#### PENSION PROTECTION

#### *Reconsideration*

#### **152 Duty to assume responsibility following reconsideration**

(1) This section applies where an application is made in respect of a scheme in accordance with section 151.

[<sup>F1</sup>(1A) Subsection (2) applies where the application is accompanied by a protected benefits quotation.]

(2) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the aggregate of—

- (a) the amount quoted in the protected benefits quotation accompanying the application,
- (b) the amount at that time of the liabilities of the scheme which are not liabilities to, or in respect of, members of the scheme, and
- (c) the estimated costs of winding up the scheme at that time.

[<sup>F2</sup>(2A) Subsection (2B) applies where—

- (a) the application is accompanied by evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and
- (b) the Board is satisfied that that is the case.

**Changes to legislation:** Pensions Act 2004, Section 152 is up to date with all changes known to be in force on or before 28 April 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) View outstanding changes

(2B) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the amount of the protected liabilities at that time.]

- (3) Where the Board makes a determination for the purposes of subsection (2) [<sup>F3</sup>or (2B)], it must issue [<sup>F4</sup>a notice to that effect (a “determination notice”)] and give a copy of that notice to—
  - (a) the trustees or managers of the scheme, and
  - (b) the Regulator.

<sup>F5</sup>(4) .....

(5) But where the Board is satisfied of the matters mentioned in subsection (2) [<sup>F6</sup>or (2B)], it is not required to assume responsibility for the scheme [<sup>F7</sup>under that subsection] until the determination notice issued under subsection (3) becomes binding.

- (6) For the purposes of subsection (5) a determination notice is not binding until—
  - (a) the period within which the issue of the notice may be reviewed by virtue of Chapter 6 has expired, and
  - (b) if the issue of the notice is so reviewed—
    - (i) the review and any reconsideration,
    - (ii) any reference to the PPF Ombudsman in respect of the issue of the notice, and
    - (iii) any appeal against his determination or directions,
 has been finally disposed of and the notice has not been revoked, varied or substituted.

- (7) Where a determination notice issued under subsection (3) becomes binding, the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding notice to—
  - (a) the trustees or managers of the scheme, and
  - (b) the Regulator.

<sup>F8</sup>(8) .....

- (9) The Board may—
  - (a) for the purposes of subsection (2), obtain its own valuation of the assets of the scheme as at the reconsideration time (within the meaning of section 151), and
  - (b) for the purposes of subsection (2)(b), obtain its own valuation of the liabilities of the scheme as at that time;

and where it does so, subsections (9)(b), (10) and (11) of section 151 apply in relation to the valuation as they apply in relation to the scheme accounts (within the meaning of that section).

- (10) [<sup>F9</sup>Where subsection (2) applies, regulations] under subsection (4) of section 143, and guidance under subsection (6) of that section, apply for the purposes of this section in relation to the estimated costs within subsection (2)(c) as they apply for the purposes of section 143 in relation to protected liabilities within section 131(1)(c).

[<sup>F10</sup>(10A) The Board may, for the purposes of subsection (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of the scheme as at the reconsideration time (within the meaning of section 151).

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- (10B) A valuation under subsection (10A) must be prepared in accordance with such requirements as may be prescribed.
- (10C) Section 143(3) to (6) applies in relation to a determination under subsection (2B) and a valuation under subsection (10A) as it applies in relation to a determination under section 143(2)(a) and an actuarial valuation obtained under section 143(2)(b).
- (10D) In the application of section 143 by virtue of subsection (10C)—
- (a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of section 151), and
  - (b) references to the pre-approval period are to be read as references to the period which begins immediately after the reconsideration time, and ends immediately before the Board first issues a determination notice under this section.]
- (11) In this section references to the assets of the scheme do not include assets representing the value of any rights in respect of money purchase benefits under the scheme rules.
- (12) This section is subject to sections 146 and 147 (refusal to assume responsibility for a scheme).

#### Textual Amendments

- F1** S. 152(1A) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(2)**; S.I. 2012/1681, art. 3(b)(iii)
- F2** S. 152(2A)(2B) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(3)**; S.I. 2012/1681, art. 3(b)(iii)
- F3** Words in s. 152(3) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(4)(a)**; S.I. 2012/1681, art. 3(b)(iii)
- F4** Words in s. 152(3) substituted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(4)(b)**; S.I. 2012/1681, art. 3(b)(iii)
- F5** S. 152(4) omitted (23.7.2012) by virtue of Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(5)**; S.I. 2012/1681, art. 3(b)(iii)
- F6** Words in s. 152(5) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(6)(a)**; S.I. 2012/1681, art. 3(b)(iii)
- F7** Words in s. 152(5) substituted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(6)(b)**; S.I. 2012/1681, art. 3(b)(iii)
- F8** S. 152(8) omitted (23.7.2012) by virtue of Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(7)**; S.I. 2012/1681, art. 3(b)(iii)
- F9** Words in s. 152(10) substituted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(8)**; S.I. 2012/1681, art. 3(b)(iii)
- F10** S. 152(10A)-(10D) inserted (23.7.2012) by Pensions Act 2011 (c. 19), s. 38(4), **Sch. 4 para. 15(9)**; S.I. 2012/1681, art. 3(b)(iii)

#### Modifications etc. (not altering text)

- C1** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005](#) (S.I. 2005/277), regs. 1(1), **2-11**
- C2** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005](#) (S.I. 2005/441), regs. 1, **2-60, 71, 72**

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**Commencement Information**

**II** S. 152(1)-(3)(5)-(7)(9)-(12) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to legislation.gov.uk. Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))