



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 1

#### THE PENSIONS REGULATOR

#### *Financial support directions*

#### **44 Meaning of “service company” and “insufficiently resourced”**

- (1) This section applies for the purposes of section 43 (financial support directions).
- (2) An employer (“E”) is a “service company” at the relevant time if—
- (a) E is a company [<sup>F1</sup>as defined in section 1(1) of the Companies Act 2006],
  - (b) E is a member of a group of companies, and
  - (c) E’s turnover, as shown in the latest available [<sup>F2</sup>individual accounts] for E prepared in accordance with [<sup>F3</sup>Part 15 of that Act], is solely or principally derived from amounts charged for the provision of the services of employees of E to other members of that group.
- (3) The employer in relation to a scheme is insufficiently resourced at the relevant time if—
- (a) at that time the value of the resources of the employer is less than the amount which is a prescribed percentage of the estimated section 75 debt in relation to the scheme, and
  - [<sup>F4</sup>(b) condition A or B is met.]
- [<sup>F5</sup>(3A) Condition A is met if—
- (a) there is at that time a person who falls within section 43(6)(b) or (c), and
  - (b) the value at that time of that person's resources is not less than the relevant deficit, that is to say the amount which is the difference between—
    - (i) the value of the resources of the employer, and
    - (ii) the amount which is the prescribed percentage of the estimated section 75 debt.

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*Changes to legislation: Pensions Act 2004, Section 44 is up to date with all changes known to be in force on or before 02 May 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*

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- (3B) Condition B is met if—
- (a) there are at that time two or more persons who—
    - (i) fall within section 43(6)(b) or (c), and
    - (ii) are connected with, or associates of, each other, and
  - (b) the aggregate value at that time of the resources of the persons who fall within paragraph (a) (or any of them) is not less than the relevant deficit.]
- (4) For the purposes of [F6subsections (3) to (3B)] —
- (a) what constitutes the resources of a person is to be determined in accordance with regulations, and
  - (b) the value of a person’s resources is to be determined, calculated and verified in a prescribed manner.
- (5) In this section the “estimated section 75 debt”, in relation to a scheme, means the amount which the Regulator estimates to be the amount of the debt which would become due from the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (c. 26) (deficiencies in the scheme assets) if—
- (a) subsection (2) of that section applied, and
  - (b) the time designated by the trustees or managers of the scheme for the purposes of that subsection were the relevant time.
- (6) When calculating the estimated section 75 debt in relation to a scheme under subsection (5), the amount of any debt due at the relevant time from the employer under section 75 of the Pensions Act 1995 (c. 26) is to be disregarded.
- (7) In this section “the relevant time” has the same meaning as in section 43.

#### Textual Amendments

- F1** Words in s. 44(2)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 243(2)(a)** (with art. 10)
- F2** Words in s. 44(2)(c) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 243(2)(b)(i)** (with art. 10)
- F3** Words in s. 44(2)(c) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 243(2)(b)(ii)** (with art. 10)
- F4** S. 44(3)(b) substituted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Pensions Act 2008 \(c. 30\)](#), s. 149(2)(3), **Sch. 9 para. 14(1)**
- F5** S. 44(3A)(3B) inserted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Pensions Act 2008 \(c. 30\)](#), s. 149(2)(3), **Sch. 9 para. 14(2)**
- F6** Words in s. 44(4) substituted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Pensions Act 2008 \(c. 30\)](#), s. 149(2)(3), **Sch. 9 para. 14(3)**

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

- C1** Pt. 1 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**
- C2** Ss. 38-56 modified (1.9.2005) by [The Pensions Regulator \(Financial Support Directions etc.\) Regulations 2005 \(S.I. 2005/2188\)](#), regs. 1, **15, 16**

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#### **Commencement Information**

- I1** S. 44(1)(2)(3)(b)(5)-(7) in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\)](#), [Sch. Pt. 7](#)
- I2** S. 44(3)(a)(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275, art. 2\(3\)](#), [Sch. Pt. 3](#)

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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))