



# Pensions Act 1995

## 1995 CHAPTER 26

### PART I

#### OCCUPATIONAL PENSIONS

##### *Trustees: general*

#### **27 Trustee not to be auditor or actuary of the scheme.**

- (1) A trustee of a trust scheme, and any person who is connected with, or an associate of, such a trustee, is ineligible to act as an auditor or actuary of the scheme.
- (2) Subsection (1) does not make a person who is a director, partner or employee of a firm of actuaries ineligible to act as an actuary of a trust scheme merely because another director, partner or employee of the firm is a trustee of the scheme.
- (3) Subsection (1) does not make a person who falls within a prescribed class or description ineligible to act as an auditor or actuary of a trust scheme.
- (4) A person must not act as an auditor or actuary of a trust scheme if he is ineligible under this section to do so.
- (5) In this section and section 28 references to a trustee of a trust scheme do not include—
  - (a) a trustee, or
  - (b) a trustee of a scheme,falling within a prescribed class or description.

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

- C1** Ss. 27-30 applied (with modifications) (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(ii)**; S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3 (as amended (9.12.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), Sch. 12 para. 76(2)(b); S.I. 2005/3331, art. 2(2), Sch. Pt. 2)

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**C2** S. 27 modified (31.12.2000) by [The Occupational Pension Schemes \(Republic of Ireland Schemes Exemption\) Regulations 2000 \(S.I. 2000/3198\)](#), regs. 1(1), **3**

#### Commencement Information

**I1** S. 27 in force at 6.4.1996 for specified purposes by [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. V**

**I2** S. 27 in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 3**

## 28 Section 27: consequences.

- (1) Any person who acts as an auditor or actuary of a trust scheme in contravention of section 27(4) is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment or a fine, or both.
- (2) An offence under subsection (1) may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction of the offence.
- (3) Acts done as an auditor or actuary of a trust scheme by a person who is ineligible under section 27 to do so are not invalid merely because of that fact.

<sup>F1</sup>(4) .....

#### Textual Amendments

**F1** S. 28(4) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 44**, **Sch. 13**; [S.I. 2005/695](#), art. 2(7), **Sch. 1**

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

**C1** [Ss. 27-30](#) applied (with modifications) (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(ii)**; [S.I. 2000/1047](#), art. 2(2)(c), **Sch. Pt. 3** (as amended (9.12.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 76(2)(b)**; [S.I. 2005/3331](#), art. 2(2), **Sch. Pt. 2**)

#### Commencement Information

**I3** S. 28 in force at 6.4.1997 by [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 3**

## 29 Persons disqualified for being trustees.

- (1) Subject to subsection (5), a person is disqualified for being a trustee of any trust scheme if—
  - (a) he has been convicted of any offence involving dishonesty or deception,
  - (b) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged [<sup>F2</sup>or he is the subject of a bankruptcy restrictions order or an interim [<sup>F3</sup>bankruptcy restrictions] order],

[<sup>F4</sup>(ba) a moratorium period under a debt relief order (under Part 7A of the Insolvency Act 1986) applies in relation to him or he is the subject of a debt relief restrictions order or an interim debt relief restrictions order (under Schedule 4ZB of the Insolvency Act 1986),]

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- (c) where the person is a company, if any director of the company is disqualified under this section,
  - (d) where the person is a Scottish partnership, if any partner is disqualified under this section,
  - (e) he has made a composition contract or an arrangement with, or granted a trust deed for the behoof of, his creditors and has not been discharged in respect of it, or
  - (f) he is <sup>F5</sup>subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002] or to an order made under section 429(2)(b) of the <sup>M1</sup>Insolvency Act 1986 (failure to pay under county court administration order).
- (2) In subsection (1)—
- (a) paragraph (a) applies whether the conviction occurred before or after the coming into force of that subsection, but does not apply in relation to any conviction which is a spent conviction for the purposes of the <sup>M2</sup>Rehabilitation of Offenders Act 1974,
  - (b) paragraph (b) applies whether the adjudication of bankruptcy or the sequestration <sup>F6</sup>or the making of the bankruptcy restrictions order or an interim order] occurred before or after the coming into force of that subsection,
  - (c) paragraph (e) applies whether the composition contract or arrangement was made, or the trust deed was granted, before or after the coming into force of that subsection, and
  - (d) paragraph (f) applies in relation to orders made before or after the coming into force of that subsection.
- <sup>F7</sup>(3) .....
- <sup>F7</sup>(4) .....
- (5) The Authority may, on the application of any person disqualified under this section—
- (a) give notice in writing to him waiving his disqualification,
  - <sup>F8</sup>(b) .....
- either generally or in relation to a particular scheme or particular <sup>F9</sup>[description] of schemes.
- (6) A notice given <sup>F10</sup>... at any time by virtue of subsection (5) cannot affect anything done before that time.

#### Textual Amendments

- F2** Words in s. 29(1)(b) inserted (29.6.2006) by [The Enterprise Act 2002 \(Disqualification from Office: General\) Order 2006 \(S.I. 2006/1722\)](#), art. 1(1), **Sch. 2 para. 5(a)**
- F3** Words in s. 29(1)(b) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, **Sch. 2 para. 34(3)(a)** (with art. 5)
- F4** S. 29(1)(ba) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, **Sch. 2 para. 34(3)(b)** (with arts. 5, 9)
- F5** Words in s. 29(1)(f) 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. 155(4)** (with art. 10)

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- F6** Words in s. 29(2)(b) inserted (29.6.2006) by The Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (S.I. 2006/1722), art. 1(1), **Sch. 2 para. 5(b)**
- F7** S. 29(3)(4) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), **Sch. 1**
- F8** S. 29(5)(b) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), **Sch. 1**
- F9** Word in s. 29(5) substituted (9.12.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 45**; S.I. 2005/3331, art. 2(2), **Sch. Pt. 2**
- F10** Words in s. 29(6) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), **Sch. 1**

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

- C1** Ss. 27-30 applied (with modifications) (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(ii)**; S.I. 2000/1047, art. 2(2)(c), **Sch. Pt. 3** (as amended (9.12.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 76(2)(b)**; S.I. 2005/3331, art. 2(2), **Sch. Pt. 2**)

#### Commencement Information

- I4** S. 29 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

#### Marginal Citations

- M1** 1986 c. 45.  
**M2** 1974 c. 53.

### 30 Persons disqualified: consequences.

[<sup>F11</sup>(1) Where a person who is a trustee of a trust scheme becomes disqualified under section 29 in relation to the scheme, his becoming so disqualified has the effect of removing him as a trustee.]

(2) Where—

(a) a trustee of a trust scheme becomes disqualified under section 29, <sup>F12</sup>...

<sup>F12</sup>(b) .....

the Authority may exercise [<sup>F13</sup>by order] the same jurisdiction and powers as are exercisable by the High Court or, in relation to a trust scheme subject to the law of Scotland, the Court of Session for vesting any property in, or transferring any property to, the trustees.

(3) A person who purports to act as a trustee of a trust scheme while he is disqualified under section 29 is guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum, and  
(b) on conviction on indictment, to a fine or imprisonment or both.

(4) An offence under subsection (3) may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction of the offence.

(5) Things done by a person disqualified under section 29 while purporting to act as trustee of a trust scheme are not invalid merely because of that disqualification.

(6) Nothing in section 29 or this section affects the liability of any person for things done, or omitted to be done, by him while purporting to act as trustee of a trust scheme.

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- F14(7) .....
- F14(8) .....

**Textual Amendments**

- F11 S. 30(1) substituted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 37, 322(1)** (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F12 S. 30(2)(b) and preceding word repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1
- F13 Words in s. 30(2) inserted (9.12.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 46(a)**; S.I. 2005/3331, art. 2(2), Sch. Pt. 2
- F14 S. 30(7)(8) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 46(b), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1

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

- C1 **Ss. 27-30** applied (with modifications) (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)** (b)(ii); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3 (as amended (9.12.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(b); S.I. 2005/3331, art. 2(2), Sch. Pt. 2)

**Commencement Information**

- I5 S. 30 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

**F15 30A Accessibility of register of disqualified trustees**

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**Textual Amendments**

- F15 S. 30A repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 47, **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1

**F16 31 Trustees not to be indemnified for fines or civil penalties.**

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**Textual Amendments**

- F16 S. 31 repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1

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