



# 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—
- on summary conviction, to a fine not exceeding the statutory maximum, and
  - 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—
- he has been convicted of any offence involving dishonesty or deception,
  - he has been [<sup>F2</sup>made] bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged [<sup>F3</sup>or he is the subject of a bankruptcy restrictions order or an interim [<sup>F4</sup>bankruptcy restrictions] order],
- [<sup>F5</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>F6</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>F7</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>F8</sup>(3) .....

<sup>F8</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>F9</sup>(b) .....

either generally or in relation to a particular scheme or particular [<sup>F10</sup>description] of schemes.

(6) A notice given<sup>F11</sup>... at any time by virtue of subsection (5) cannot affect anything done before that time.

#### Textual Amendments

- F2** Word in s. 29(1)(b) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\), reg. 1, Sch. 1 para. 11\(3\)](#)
- F3** 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\(a\)](#)
- F4** 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\(3\)\(a\) \(with art. 5\)](#)
- F5** 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\(3\)\(b\) \(with arts. 5, 9\)](#)

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- F6** 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)
- F7** 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)**
- F8** 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
- F9** 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
- F10** 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
- F11** 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>F12</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>F13</sup>...
- <sup>F13</sup>(b) .....  
the Authority may exercise [<sup>F14</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.

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- (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.

<sup>F15</sup>(7) .....

<sup>F15</sup>(8) .....

**Textual Amendments**

- F12** 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
- F13** 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
- F14** 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
- F15** 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**

<sup>F16</sup>**30A Accessibility of register of disqualified trustees**

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**Textual Amendments**

- F16** 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

<sup>F17</sup>**31 Trustees not to be indemnified for fines or civil penalties.**

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**Textual Amendments**

- F17** 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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