



# Pensions Act 1995

## 1995 CHAPTER 26

### PART I

#### OCCUPATIONAL PENSIONS

##### *Independent trustees*

#### **25 Appointment and powers of independent trustees: further provisions.**

- (1) If, immediately before the appointment of an independent trustee under [<sup>F1</sup>section 23(1)], there is no trustee of the scheme other than the employer, the employer shall cease to be a trustee upon the appointment of the independent trustee.
- (2) While section 22 applies in relation to a scheme [<sup>F2</sup>and there is an independent trustee of the scheme appointed under section 23(1)]—
  - (a) any power vested in the trustees of the scheme and exercisable at their discretion may be exercised only by the independent trustee, and
  - (b) any power—
    - (i) which the scheme confers on the employer (otherwise than as trustee of the scheme), and
    - (ii) which is exercisable by him at his discretion but only as trustee of the power,may be exercised only by the independent trustee.
- <sup>F3</sup> ...
- (3) While section 22 applies in relation to a scheme [<sup>F4</sup>and there is an independent trustee of the scheme appointed under section 23(1), the independent trustee may not] be removed from being a trustee by virtue only of any provision of the scheme.
- (4) If a trustee appointed under [<sup>F5</sup>section 23(1)] ceases to be an independent person [<sup>F6</sup>(within the meaning of section 23(3))], then—
  - [<sup>F7</sup>(a) he must as soon as reasonably practicable give written notice of that fact to the Authority, and]

*Status: Point in time view as at 01/01/2014.*

*Changes to legislation: Pensions Act 1995, Section 25 is up to date with all changes known to be in force on or before 04 July 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)*

- (b) subject to subsection (5), he shall cease to be a trustee of the scheme.
- (5) If, in a case where subsection (4) applies, there is no other trustee of the scheme than the former independent trustee, he shall not cease by virtue of that subsection to be a trustee until such time as another trustee is appointed.
- [<sup>F8</sup>(5A) Section 10 applies to any person who, without reasonable excuse, fails to comply with subsection (4)(a).]
- [<sup>F9</sup>(6) An order under section 23(1) may provide for any fees and expenses of the trustee appointed under the order to be paid—
- (a) by the employer,
  - (b) out of the resources of the scheme, or
  - (c) partly by the employer and partly out of those resources.
- (7) Such an order may also provide that an amount equal to the amount (if any) paid out of the resources of the scheme by virtue of subsection (6)(b) or (c) is to be treated for all purposes as a debt due from the employer to the trustees of the scheme.
- (8) Where, by virtue of subsection (6)(b) or (c), an order makes provision for any fees or expenses of the trustee appointed under the order to be paid out of the resources of the scheme, the trustee is entitled to be so paid in priority to all other claims falling to be met out of the scheme's resources.]

#### Textual Amendments

- F1** Words in s. 25(1) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 41(a)**; S.I. 2005/695, art. 2(7), Sch. 1
- F2** Words in s. 25(2) inserted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 41(b)(i)**; S.I. 2005/695, art. 2(7), Sch. 1
- F3** Words in s. 25(2) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 41(b)(ii), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1
- F4** Words in s. 25(3) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 41(c)**; S.I. 2005/695, art. 2(7), Sch. 1
- F5** Words in s. 25(4) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 41(d)(i)**; S.I. 2005/695, art. 2(7), Sch. 1
- F6** Words in s. 25(4) inserted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 41(d)(ii)**; S.I. 2005/695, art. 2(7), Sch. 1
- F7** S. 25(4)(a) substituted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 36(4)(a)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F8** S. 25(5A) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 36(4)(b)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F9** S. 25(6)-(8) substituted for s. 25(6) (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 36(4)(c)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7

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

- C1** Ss. 22-26 excluded (31.12.2000) by The Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000 (S.I. 2000/3198), regs. 1(1), 2, **Sch.**
- C2** Ss. 22-26 modified (11.4.2005) by The Occupational Pension Schemes (Independent Trustee) Regulations 2005 (S.I. 2005/703), regs. 1(1), **10-12**

#### Commencement Information

- I1** S. 25 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

**Status:**

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**Changes to legislation:**

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