



# Pensions Act 1995

## 1995 CHAPTER 26

### PART I U.K.

#### OCCUPATIONAL PENSIONS

##### *Functions of trustees or managers*

#### 40 Restriction on employer-related investments. U.K.

(1) The trustees or managers of an occupational pension scheme must secure that the scheme complies with any prescribed restrictions with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.

(2) In this section—

“employer-related investments” means—

- (a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer,
- (b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person,
- (c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person,
- (d) loans to the employer or any such person, and
- (e) other prescribed investments,

<sup>F1</sup>

[<sup>F2</sup>(2A) In the definition of “employer-related investments” in subsection (2) “securities” means—

- (a) shares,
- (b) instruments creating or acknowledging indebtedness,
- (c) instruments giving entitlements to investments,
- (d) certificates representing securities.]

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**Changes to legislation:** Pensions Act 1995, Section 40 is up to date with all changes known to be in force on or before 03 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) View outstanding changes

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- [<sup>F2</sup>(2B) Subsection (2A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
  - (b) any relevant order made under that section, and
  - (c) Schedule 2 to that Act.]
- (3) To the extent (if any) that sums due and payable by a person to the trustees or managers of an occupational pension scheme remain unpaid—
- (a) they shall be regarded for the purposes of this section as loans made to that person by the trustees or managers, and
  - (b) resources of the scheme shall be regarded as invested accordingly.
- (4) If in the case of a trust scheme subsection (1) is not complied with, [<sup>F3</sup>section 10 applies] to any trustee who fails to take all such steps as are reasonable to secure compliance.
- (5) If any resources of an occupational pension scheme are invested in contravention of subsection (1), any trustee or manager who agreed in the determination to make the investment 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.

#### Textual Amendments

- F1** Words in s. 40(2) repealed (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **141(2)**
- F2** S. 40(2A)(2B) substituted (4.3.2004) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2004 \(S.I. 2004/355\)](#), arts. 1(1), **5(2)**
- F3** Words in s. 40(4) substituted (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 51**; S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1

#### Commencement Information

- I1** S. 40 in force at 6.4.1996 for specified purposes by [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. V**
- I2** S. 40 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**

**Changes to legislation:**

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 36](#)

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

- s. 37(1A)(b) inserted by [2015 c. 8 Sch. 2 para. 7\(b\)](#)
- s. 51(5A)-(5C) inserted by [2015 c. 8 s. 43\(1\)](#)
- s. 51(7A) inserted by [2015 c. 8 s. 41\(1\)\(b\)](#)
- s. 51(9)(10) inserted by [2015 c. 8 s. 42\(3\)](#)
- s. 67A(3)(aa)-(ac) inserted by [2015 c. 8 s. 45\(3\)](#)
- s. 67A(9)(a)(viii)-(x) inserted by [2015 c. 8 s. 45\(6\)\(a\)](#)
- s. 67A(9)(b)(vi)-(viii) inserted by [2015 c. 8 s. 45\(6\)\(b\)](#)
- s. 73(2)(2A) substituted for s. 73(2) by [2015 c. 8 Sch. 2 para. 11](#)
- s. 75(1)-(1B) substituted for s. 75(1) by [2015 c. 8 Sch. 2 para. 12](#)
- s. 175(2)(ca) inserted by [2004 c. 35 s. 240\(2\)](#)
- s. 175(2)(za) inserted by [2015 c. 8 s. 43\(2\)](#)