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**Changes to legislation:** Pensions Act 2004, Cross Heading: Pensions Act 1995 (c. 26) is up to date with all changes known to be in force on or before 08 August 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)

## SCHEDULES

### SCHEDULE 12

#### MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 06/04/2005

#### *Pensions Act 1995 (c. 26)*

- 34 The Pensions Act 1995 is amended as follows.
- 35 In section 4 (suspension orders), in subsections (3) and (5) for “class” substitute “description”.
- 36 In section 7 (appointment of trustees)—
- (a) in subsection (1) omit “a trustee of such a scheme ceases to be a trustee”, and
  - (b) in subsection (2) for “section 23(1)(b)” in both places substitute “section 23(1)”.
- 37 In section 9 (removal and appointment of trustees: property), after “exercise” insert “by order”.
- 38 In section 10 (civil penalties), in subsection (5)(a) omit “as a trustee of a trust scheme”.
- 39 In section 15(4) (failure to comply with Authority’s direction) for “sections 3 and 10 apply” substitute “section 10 applies”.
- 40 In section 22 (circumstances in which independent trustee provisions apply), in subsections (1) and (3) for “to 26A”, in each place, substitute “to 26”.
- 41 In section 25 (appointment and powers of independent trustees: further provisions)—
- (a) in subsection (1) for “section 23(1)(b)” substitute “section 23(1)”,
  - (b) in subsection (2)—
    - (i) after “a scheme” insert “and there is an independent trustee of the scheme appointed under section 23(1)”, and
    - (ii) omit from “but if” to the end,
  - (c) in subsection (3) for “, no independent trustee of the scheme may” substitute “and there is an independent trustee of the scheme appointed under section 23(1), the independent trustee may not”, and
  - (d) in subsection (4)—
    - (i) for “section 23(1)(b)” substitute “section 23(1)”, and
    - (ii) after “person” insert “(within the meaning of section 23(3))”.

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42 In section 26 (insolvency practitioner or official receiver to give information to trustees), in subsection (1) after “a scheme” insert “ by virtue of subsection (1) of that section ”.

43 Sections 26A to 26C are hereby repealed.

44 In section 28 (consequences of prohibition on trustee being auditor of scheme etc) omit subsection (4).

VALID FROM 09/12/2005

45 In section 29 (persons disqualified for being trustees), in subsection (5) for “class” substitute “ description ”.

46 In section 30 (persons disqualified: consequences)—  
 (a) in subsection (2), after “exercise” insert “ by order ”, and  
 (b) omit subsections (7) and (8).

47 Omit section 30A (accessibility of register of disqualified trustees).

VALID FROM 06/04/2006

48 In section 32 (decisions of trustees by a majority)—  
 (a) in subsection (4) for “, 16(3)(b) and 25(2)” substitute “ and 25(2) of this Act and section 241(6) of the Pensions Act 2004 ”, and  
 (b) in subsection (5) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 04/12/2005

49 In section 34 (powers of investment and delegation) in subsection (1) after “subject to” insert “ section 36(1) and to ”.

VALID FROM 09/12/2005

50 (1) Section 38 (power to defer winding up) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) after “scheme” insert “ (other than those due to be paid before the determination is made) ”, and
- (b) in paragraph (b) omit “new”.

(3) After subsection (3) insert—

“(4) This section also does not apply in relation to a trust scheme where the trustees are required to wind up, or continue the winding up, of the scheme under section 154(1) of the Pensions Act 2004 (requirement to wind up certain schemes with sufficient assets to meet protected liabilities).”

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VALID FROM 04/12/2005

- 51 In section 40 (restriction on employer-related investments), in subsection (4) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 04/12/2005

- 52 In section 41 (provision of documents for members)—
- (a) for subsection (3) substitute—
- “(3) The documents referred to in subsection (1)(b) are—
- (a) any statement of funding principles prepared or revised under section 223 of the Pensions Act 2004,
- (b) any valuation or report prepared by the actuary under section 224 of that Act,
- (c) any certificate given by the actuary under section 225 or 227 of that Act.”, and
- (b) in subsection (5B) for “sections 3 and 10 apply to any trustee, and section 10 applies” substitute “ section 10 applies to any trustee, and ”.

VALID FROM 06/04/2006

- 53 In section 47 (professional advisers), in subsections (3), (8) and (11) for “sections 3 and 10 apply to any trustee, and section 10 applies” substitute “ section 10 applies to any trustee, and ”.

VALID FROM 09/12/2005

- 54 In section 49 (other responsibilities of trustees, employers, etc)—
- (a) in subsection (6) for “sections 3 and 10 apply” substitute “ section 10 applies ”, and
- (b) in subsection (10)—
- (i) omit paragraph (a) and the word “and” immediately after it, and
- (ii) in paragraph (b) for “such steps” substitute “ reasonable steps to secure compliance ”.

VALID FROM 09/12/2005

- 55 In section 49A (record of winding up decisions) omit subsection (4).

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VALID FROM 01/09/2005

- 56 In section 68 (power of trustees to modify schemes by resolution), in subsection (2)—
- (a) in paragraph (b), for “section 16(1) or 17(2)” substitute “ section 241 of the Pensions Act 2004 ”, and
  - (b) for paragraph (c) substitute—
    - “(c) to enable the scheme to comply with such terms and conditions as may be imposed by the Board of the Pension Protection Fund in relation to any payment made by it under section 185 or 186 of the Pensions Act 2004.”.

VALID FROM 06/04/2006

- 57 In section 69 (grounds for applying for modifications)—
- (a) in subsection (2) for “about the manner of dealing with applications under this section” substitute “ requiring applications under this section to meet prescribed requirements ”,
  - (b) in subsection (3) omit paragraph (a),
  - (c) in subsection (4)(a) omit “(a) or”, and
  - (d) in subsection (5)(a) omit “either of” and for “subsection (3)(a) or (b)” substitute “ subsection (3)(b) ”.

VALID FROM 06/04/2006

- 58 In section 71A(4)(d) (power to make provision in relation to applications for the purposes of that section)—
- (a) for “before such time as may be prescribed” substitute “ before an application is made for the purposes of this section ”, and
  - (b) for “an application for the purposes of this section” substitute “ the application ”.

- 59 In section 72A (reports to Authority about winding up) omit subsection (9)(a) and “and” immediately after it.

- 60 In section 72C (duty to comply with directions for facilitating winding up) omit subsection (2).

PROSPECTIVE

- 61 In section 73 (preferential liabilities on winding up) in subsection (6), omit paragraph (a) and “and” immediately after it.

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- 62 In section 76 (excess assets on winding up)—

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- (a) in subsection (3), omit paragraph (c) (but not the word “and” immediately following it),
- (b) omit subsection (5), and
- (c) in subsection (6) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 06/04/2006

63 In section 77 (excess assets remaining after winding up: power to distribute)

- (a) omit subsections (2) and (3),
- (b) in subsection (4)—
  - (i) for the opening words substitute “Where this section applies —”, and
  - (ii) in paragraph (a) for “those assets” substitute “ the undistributed assets ”, and
- (c) in subsection (5) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 06/04/2006

64 In section 87 (schedules of payment to money purchase schemes) omit subsection (5)(a) and “and” immediately after it.

VALID FROM 06/04/2006

65 In section 88 (provision supplementary to section 87) omit subsection (4)(a) and “and” immediately after it.

66 In section 89 (application of further provisions to money purchase schemes)—

- (a) in subsection (1)(a)—
  - (i) for “sections 56 to 60” substitute “ Part 3 of the Pensions Act 2004 ”, and
  - (ii) for “those sections” substitute “ that Part ”, and
- (b) in subsection (2) omit “insolvency”.

67 In section 118 (powers to modify Part 1 of the Pensions Act 1995)—

- (a) in subsection (2) for “to 26C” substitute “ to 26 ”, and
- (b) omit subsection (3).

68 In section 119 (calculations etc under regulations: sub-delegation), for “73(3)” substitute “ 73B(4)(a) ”.

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69 (1) Section 124 (interpretation of Part 1) is amended as follows.

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- (2) In subsection (1), in the definition of “transfer credits”, for the words following “by reference to” substitute “—
- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than pension credit rights, or
  - (b) a cash transfer sum paid under Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers) in respect of him, to the trustees or managers of the scheme,”.
- (3) In subsection (3A), after “(3E)” insert “ and to sections 28, 154 and 219 of the Pensions Act 2004 ”.
- (4) In subsection (3B), after “(3E)” insert “ and to sections 154 and 219 of the Pensions Act 2004 ”.

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