



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Functions of trustees or managers

40 Restriction on employer-related investments

- (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,
 - “securities” means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986.
- (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.

Status: This is the original version (as it was originally enacted).

- (4) If in the case of a trust scheme subsection (1) is not complied with, sections 3 and 10 apply 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.

41 Provision of documents for members

- (1) Regulations may require the trustees or managers of an occupational pension scheme—
 - (a) to obtain at prescribed times the documents mentioned in subsection (2), and
 - (b) to make copies of them, and of the documents mentioned in subsection (3), available to the persons mentioned in subsection (4).
- (2) The documents referred to in subsection (1)(a) are—
 - (a) the accounts audited by the auditor of the scheme,
 - (b) the auditor’s statement about contributions under the scheme,
 - (c) a valuation by the actuary of the assets and liabilities of the scheme, and a statement by the actuary concerning such aspects of the valuation as may be prescribed.
- (3) The documents referred to in subsection (1)(b) are—
 - (a) any valuation, or certificate, prepared under section 57 or 58 by the actuary of the scheme,
 - (b) any report prepared by the trustees or managers under section 59(3).
- (4) The persons referred to in subsection (1)(b) are—
 - (a) members and prospective members of the scheme,
 - (b) spouses of members and of prospective members,
 - (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits,
 - (d) independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme.
- (5) Regulations may in the case of occupational pension schemes to which section 47 does not apply—
 - (a) prescribe the persons who may act as auditors or actuaries for the purposes of subsection (2), or
 - (b) provide that the persons who may so act shall be—
 - (i) persons with prescribed professional qualifications or experience, or
 - (ii) persons approved by the Secretary of State.
- (6) Regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (4)(d) and may make provision as to the form and content of any such document as is referred to in subsection (2).