



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 5

#### OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

##### *Requirements for member-nominated trustees and directors*

#### **242 Requirement for member-nominated directors of corporate trustees**

- (1) Where a company is a trustee of an occupational trust scheme and every trustee of the scheme is a company, the company must secure—
  - (a) that, within a reasonable period of the commencement date, arrangements are in place which provide for at least one-third of the total number of directors of the company to be member-nominated directors, and
  - (b) that those arrangements are implemented.
- (2) “Member-nominated directors” are directors of the company in question who—
  - (a) are nominated as the result of a process in which at least the following are eligible to participate—
    - (i) all the active members of the occupational trust scheme or an organisation which adequately represents the active members, and
    - (ii) all the pensioner members of the occupational trust scheme or an organisation which adequately represents the pensioner members, and
  - (b) are selected as a result of a process which involves some or all of the members of that scheme.
- (3) The “commencement date”, in relation to a company, is—
  - (a) the date upon which this section first applies in relation to the company, or
  - (b) in the case of a company to which this section has ceased to apply and then reapplies, the date on which the section reapplies to it.

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*Changes to legislation: Pensions Act 2004, Section 242 is up to date with all changes known to be in force on or before 19 April 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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- (4) The arrangements may provide for a greater number of member-nominated directors than that required to satisfy the one-third minimum mentioned in subsection (1)(a) only if the employer has approved the greater number.
- (5) The arrangements—
- (a) must provide for the nomination and selection process to take place within a reasonable period of any requirement arising under the arrangements to appoint a member-nominated director,
  - (b) must provide, where a vacancy is not filled because insufficient nominations are received, for the nomination and selection process to be repeated at reasonable intervals until the vacancy is filled,
  - (c) must provide that where the employer so requires, a person who is not a member of the scheme must have the employer's approval to qualify for selection as a member-nominated director, and
  - (d) subject to paragraph (c), may provide that, where the number of nominations received is equal to or less than the number of appointments required, the nominees are deemed to be selected.
- (6) The arrangements must provide that the removal of a member-nominated director requires the agreement of all the other directors.
- (7) Nothing in the arrangements may exclude member-nominated directors from the exercise of functions exercisable by other directors by reason only of the fact that they are member-nominated directors.
- (8) Where the same company is a trustee of two or more occupational trust schemes by reference to each of which this section applies to the company, then, subject to subsection (9), the preceding provisions of this section have effect as if—
- (a) the schemes were a single scheme,
  - (b) the members of each of the schemes were members of that single scheme, and
  - (c) the references to “the employer” were references to all the employers in relation to the schemes.
- (9) Where, apart from this subsection, subsection (8) would apply in relation to a company, the company may elect that subsection (8)—
- (a) is not to apply as mentioned in that subsection, or
  - (b) is to apply but only in relation to some of the schemes to which it would otherwise apply.
- (10) This section does not apply in relation to an occupational trust scheme if the scheme is of a prescribed description.
- (11) If, in the case of a company which is a trustee of an occupational trust scheme, the arrangements required by subsection (1)—
- (a) are not in place as required by subsection (1)(a), or
  - (b) are not being implemented,
- section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to the company.

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

**C1** Ss. 241, 242 modified (6.4.2006) by [The Occupational Pension Schemes \(Member-nominated Trustees and Directors\) Regulations 2006 \(S.I. 2006/714\)](#), regs. 1(1), 5

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**Changes to legislation:** Pensions Act 2004, Section 242 is up to date with all changes known to be in force on or before 19 April 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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**C2** S. 242 power to apply (with modifications) conferred (26.11.2008) by [Pensions Act 2008 \(c. 30\)](#), s. 149(2), [Sch. 1 para. 1\(6\)](#)

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**Commencement Information**

**I1** S. 242 in force at 1.11.2005 for specified purpose and 6.4.2006 in so far as not already in force by [S.I. 2005/2447](#), art. 2(5), [Sch. Pt. 2](#)

**Changes to legislation:**

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

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

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))