



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Supervision by the Authority

[^{F1}3] **Prohibition orders.**

- (1) The Authority may by order prohibit a person from being a trustee of—
 - (a) a particular trust scheme,
 - (b) a particular description of trust schemes, or
 - (c) trust schemes in general,if they are satisfied that he is not a fit and proper person to be a trustee of the scheme or schemes to which the order relates.
- (2) Where a prohibition order is made under subsection (1) against a person in respect of one or more schemes of which he is a trustee, the order has the effect of removing him.
- (3) The Authority may, on the application of any person prohibited under this section, by order revoke the order either generally or in relation to a particular scheme or description of schemes.
- (4) An application under subsection (3) may not be made—
 - (a) during the period within which the determination to exercise the power to make the prohibition order may be referred to [^{F2}a tribunal] under section 96(3) or 99(7) of the Pensions Act 2004, and
 - (b) if the determination is so referred, until the reference, and any appeal against [^{F3}the determination of the tribunal concerned], has been finally disposed of.
- (5) A revocation made at any time under this section cannot affect anything done before that time.

Status: Point in time view as at 01/01/2014.

Changes to legislation: Pensions Act 1995, Cross Heading: Supervision by the Authority is up to date with all changes known to be in force on or before 20 June 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)

- (6) The Authority must prepare and publish a statement of the policies they intend to adopt in relation to the exercise of their powers under this section.
- (7) The Authority may revise any statement published under subsection (6) and must publish any revised statement.

^{F4}(8)]

Textual Amendments

- F1** S. 3 substituted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 33, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(3), 6, Schs. 2, 3)
- F2** Words in s. 3(4)(a) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 22(a)(i)** (with Sch. 5)
- F3** Words in s. 3(4)(b) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 22(a)(ii)** (with Sch. 5)
- F4** S. 3(8) omitted (6.4.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 22(b)** (with Sch. 5)

Modifications etc. (not altering text)

- C1** Ss. 3-11 modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(i)**; S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))
- C2** S. 3 applied (5.7.2010) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 1 para. 3(2)**; S.I. 2010/10, art. 2(a)

4 Suspension orders.

- (1) The Authority may by order suspend a trustee of a trust scheme—
- (a) pending consideration being given to the making of an order against him under section 3(1),
 - ^{F5}(aa) pending consideration being given to the institution of proceedings against him for an offence involving dishonesty or deception,]
 - (b) where proceedings have been instituted against him for an offence involving dishonesty or deception and have not been concluded,
 - (c) where a petition has been presented to the court for an order adjudging him bankrupt, or for the sequestration of his estate, and proceedings on the petition have not been concluded [^{F6}or an application has been made by him for a debt relief order (under Part 7A of the Insolvency Act 1986) and the application has not been determined],
 - (d) where the trustee is a company, if a petition for the winding up of the company has been presented to the court and proceedings on the petition have not been concluded,
 - (e) where an application has been made to the court for a disqualification order against him under the ^{M1}Company Directors Disqualification Act 1986 [^{F7}or under [^{F8}the Company Directors Disqualification (Northern Ireland) Order 2002]] and proceedings on the application have not been concluded, or
 - (f) where the trustee is a company or Scottish partnership and, if any director or, as the case may be, partner were a trustee, the Authority would have power to suspend him under paragraph (b), (c) or (e).

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- (2) An order under subsection (1)—
- (a) if made by virtue of paragraph (a) [^{F9}or (aa)], has effect for an initial period not exceeding twelve months, and
 - (b) in any other case, has effect until the proceedings in question are concluded [^{F10}or, in the case of an application for a debt relief order, the application is determined];
- but the Authority may by order extend the initial period referred to in paragraph (a) for a further period of twelve months, and any order suspending a person under subsection (1) ceases to have effect [^{F11}in relation to a trust scheme] if an order is made against that person under section 3(1) [^{F12}in relation to that scheme].
- (3) An order under subsection (1) has the effect of prohibiting the person suspended, during the period of his suspension, from exercising any functions as trustee of any trust scheme to which the order applies; and the order may apply to a particular trust scheme, a particular [^{F13}description] of trust schemes or trust schemes in general.
- (4) An order under subsection (1) may be made on one of the grounds in paragraphs (b) to (e) whether or not the proceedings were instituted, petition presented or application made (as the case may be) before or after the coming into force of that subsection.
- (5) The Authority may, on the application of any person suspended under subsection (1), by order revoke the order, either generally or in relation to a particular scheme or a particular [^{F14}description] of schemes; but a revocation made at any time cannot affect anything done before that time.

[^{F15}(5A) An application under subsection (5) may not be made—

- (a) during the period within which the determination to exercise the power to make an order under subsection (1) may be referred to [^{F16}a tribunal] under section 96(3) or 99(7) of the Pensions Act 2004, and
 - (b) if the determination is so referred, until the reference, and any appeal against [^{F17}the determination of the tribunal concerned], has been finally disposed of.]
- (6) An order under this section may make provision as respects the period of the trustee's suspension for matters arising out of it, and in particular for enabling any person to execute any instrument in his name or otherwise act for him and for adjusting any rules governing the proceedings of the trustees to take account of the reduction in the number capable of acting.

[^{F18}(7)

Textual Amendments

- F5** S. 4(1)(aa) inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 34(a), 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F6** Words in s. 4(1)(c) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, Sch. 2 para. 34(2)(a) (with art. 5)
- F7** Words in s. 4(1)(e) inserted (2.4.2001) by Insolvency Act 2000 (c. 39), s. 16(1), Sch. 4 para. 19(2); S.I. 2001/766, art. 2(1)(a) (with art. 3)
- F8** Words in s. 4(1)(e) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), Sch. 1 para. 155(2) (with art. 10)
- F9** Words in s. 4(2)(a) inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 34(b)(i), 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)

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- F10** Words in s. 4(2)(b) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 34(2)(b)** (with art. 5)
- F11** Words in s. 4(2) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 34(b)(ii)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F12** Words in s. 4(2) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 34(b)(iii)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F13** Word in s. 4(3) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 35**; S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Schs. 2, 3)
- F14** Word in s. 4(5) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 35**; S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Schs. 2, 3)
- F15** S. 4(5A) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 34(c)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F16** Words in s. 4(5A)(a) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 23(a)(i)** (with Sch. 5)
- F17** Words in s. 4(5A)(b) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 23(a)(ii)** (with Sch. 5)
- F18** S. 4(7) omitted (6.4.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 23(b)** (with Sch. 5)

Modifications etc. (not altering text)

- C1** Ss. 3-11 modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(i)**; S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))

Commencement Information

- I1** S. 4 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

Marginal Citations

- M1** 1986 c. 46.

F19⁵ Removal of trustees: notices.

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Textual Amendments

- F19** S. 5 repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1

6 Removal or suspension of trustees: consequences.

- (1) A person who purports to act as trustee of a trust scheme while prohibited from being a trustee of the scheme under section 3 or suspended in relation to the scheme under section 4 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.
- (2) An offence under subsection (1) may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under

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that subsection by reference to any period of time following the preceding conviction of the offence.

- (3) Things done by a person purporting to act as trustee of a trust scheme while prohibited from being a trustee of the scheme under section 3 or suspended in relation to the scheme under section 4 are not invalid merely because of that prohibition or suspension.
- (4) Nothing in section 3 or 4 or this section affects the liability of any person for things done, or omitted to be done, by him while purporting to act as trustee of a trust scheme.

Modifications etc. (not altering text)

C1 Ss. 3-11 modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 1 para. 1\(1\)\(2\)\(b\)\(i\)](#); [S.I. 2000/1047](#), art. 2(2)(c), [Sch. Pt. III](#) (as amended (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 76\(2\)\(a\)](#))

Commencement Information

I2 S. 6 in force at 6.4.1997 by [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 3](#)

7 Appointment of trustees.

- (1) Where a trustee of a trust scheme is removed by an order under section 3, or ^{F20}... by reason of his disqualification, the Authority may by order appoint another trustee in his place.
- (2) Where a trustee appointed under subsection (1) is appointed to replace a trustee appointed under [^{F21}section 23(1)], sections 22 to 26 shall apply to the replacement trustee as they apply to a trustee appointed under [^{F21}section 23(1)].
- (3) The Authority may also by order appoint a trustee of a trust scheme where they are satisfied that it is [^{F22}reasonable] to do so in order—
 - (a) to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of the scheme,
 - (b) to secure that the number of trustees is sufficient for the proper administration of the scheme, ^{F23}...
 - (c) to secure the proper use or application of the assets of the scheme [^{F24}, or
 - (d) otherwise to protect the interests of the generality of the members of the scheme.]

^{F25}(4)

- (5) The power to appoint a trustee by an order under this section includes power by such an order—
 - (a) to determine the appropriate number of trustees for the proper administration of the scheme,
 - (b) to require a trustee appointed by the order to be paid fees and expenses out of the scheme's resources,
 - (c) to provide for the removal or replacement of such a trustee.

[^{F26}(5A) An application may be made to the Authority in relation to a trust scheme by—

- (a) the trustees of the scheme,

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- (b) the employer, or
 - (c) any member of the scheme,
- for the appointment of a trustee of the scheme under subsection (3)(a) or (c).]
- (6) Regulations may make provision about the descriptions of persons who may or may not be appointed trustees under this section.

Textual Amendments

- F20** Words in s. 7(1) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 36\(a\)](#), [Sch. 13](#); [S.I. 2005/695](#), art. 2(7), [Sch. 1](#)
- F21** Words in s. 7(2) substituted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 36\(b\)](#); [S.I. 2005/695](#), art. 2(7), [Sch. 1](#)
- F22** Word in s. 7(3) substituted (26.1.2009) by [Pensions Act 2008 \(c. 30\)](#), [ss. 131\(1\)\(a\)](#), 149(5)
- F23** Word in s. 7(3)(b) repealed (26.1.2009) by [Pensions Act 2008 \(c. 30\)](#), [ss. 131\(1\)\(b\)](#), 149(5), [Sch. 11 Pt. 6](#)
- F24** [S. 7\(3\)\(d\)](#) and preceding word inserted (26.1.2009) by [Pensions Act 2008 \(c. 30\)](#), [ss. 131\(1\)\(c\)](#), 149(5)
- F25** [S. 7\(4\)](#) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), [ss. 35\(1\)\(a\)](#), 322(1), [Sch. 13](#) (with s. 313); [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)
- F26** [S. 7\(5A\)](#) inserted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), [ss. 35\(1\)\(b\)](#), 322(1) (with s. 313); [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Modifications etc. (not altering text)

- C1** [Ss. 3-11](#) modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 1 para. 1\(1\)\(2\)\(b\)\(i\)](#); [S.I. 2000/1047](#), art. 2(2)(c), [Sch. Pt. III](#) (as amended (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 76\(2\)\(a\)](#))

Commencement Information

- I3** [S. 7](#) in force at 6.4.1997 by [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 3](#)

8 Appointment of trustees: consequences.

- [^{F27}(1) An order under section 7 appointing a trustee may provide for any fees and expenses of trustees 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.
- (2) 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 (1)(b) or (c) is to be treated for all purposes as a debt due from the employer to the trustees of the scheme.]
- (3) Subject to subsection (4), a trustee appointed under that section shall, unless he is the independent trustee and section 22 applies in relation to the scheme, have the same powers and duties as the other trustees.
- (4) Such an order may make provision—
- (a) for restricting the powers or duties of a trustee so appointed, ^{F28}...
 - (b) for powers or duties to be exercisable by a trustee so appointed to the exclusion of other trustees.

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Textual Amendments

- F27** S. 8(1)(2) substituted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 35(2)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F28** Word in s. 8(4)(a) repealed (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), Sch. 2 para. 10, **Sch. 13 Pt. I**; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. II

Modifications etc. (not altering text)

- C1** Ss. 3-11 modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)** (i); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))

Commencement Information

- I4** S. 8 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

9 Removal and appointment of trustees: property.

Where the Authority have power under this Part to appoint or remove a trustee, they may exercise [^{F29}by order] the same jurisdiction and powers as are exercisable by the High Court or, in relation to a trust scheme subject to the law of Scotland, the Court of Session for vesting any property in, or transferring any property to, trustees in consequence of the appointment or of the removal.

Textual Amendments

- F29** Words in s. 9 inserted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 37**; S.I. 2005/695, art. 2(7), Sch. 1

Modifications etc. (not altering text)

- C1** Ss. 3-11 modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)** (i); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))

Commencement Information

- I5** S. 9 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

10 Civil penalties.

- (1) Where the Authority are satisfied that by reason of any act or omission this section applies to any person, they may by notice in writing require him to pay, within a prescribed period, a penalty in respect of that act or omission not exceeding the maximum amount.
- (2) In this section “the maximum amount” means—
- £5,000 in the case of an individual and £50,000 in any other case, or
 - such lower amount as may be prescribed in the case of an individual or in any other case,

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and the Secretary of State may by order amend paragraph (a) by substituting higher amounts for the amounts for the time being specified in that paragraph.

- (3) Regulations made by virtue of this Part may provide for any person who has contravened any provision of such regulations to pay, within a prescribed period, a penalty under this section not exceeding an amount specified in the regulations; and the regulations must specify different amounts in the case of individuals from those specified in other cases and any amount so specified may not exceed the amount for the time being specified in the case of individuals or, as the case may be, others in subsection (2)(a).
- (4) An order made under subsection (2) or regulations made by virtue of subsection (3) do not affect the amount of any penalty recoverable under this section by reason of an act or omission occurring before the order or, as the case may be, regulations are made.
- (5) Where—
- (a) apart from this subsection, a penalty under this section is recoverable from a body corporate or Scottish partnership by reason of any act or omission of the body or partnership^{F30} ... , and
 - (b) the act or omission was done with the consent or connivance of, or is attributable to any neglect on the part of, any persons mentioned in subsection (6),
- this section applies to each of those persons who consented to or connived in the act or omission or to whose neglect the act or omission was attributable.
- (6) The persons referred to in subsection (5)(b)—
- (a) in relation to a body corporate, are—
 - (i) any director, manager, secretary, or other similar officer of the body, or a person purporting to act in any such capacity, and
 - (ii) where the affairs of a body corporate are managed by its members, any member in connection with his functions of management, and
 - (b) in relation to a Scottish partnership, are the partners.
- (7) Where the Authority requires any person to pay a penalty by virtue of subsection (5), they may not also require the body corporate, or Scottish partnership, in question to pay a penalty in respect of the same act or omission.
- (8) A penalty under this section is recoverable by the Authority.

[^{F31}(8A) Any penalty recoverable under this section—

- (a) shall, if a county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
- (b) may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]

- (9) The Authority must pay to the Secretary of State any penalty recovered under this section.

Textual Amendments

F30 Words in s. 10(5)(a) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\), s. 322\(1\), Sch. 12 para. 38, Sch. 13; S.I. 2005/695, art. 2\(7\), Sch. 1](#)

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F31 S. 10(8A) inserted (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 11**; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. II

Modifications etc. (not altering text)

- C1** Ss. 3-11 modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)** (i); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))
- C3** S. 10 applied by Pension Schemes Act 1993 (c. 48), s. **93A(4)** (as inserted (6.4.1996 for specified purposes; 6.4.1997 in so far as not already in force) by the Pensions Act 1995 (c. 26), ss. 153, 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II)
- C4** S. 10 applied by Pension Schemes Act 1993 (c. 48), s. **99(7)(b)** (as added (6.4.1996 for specified purposes; 6.4.1997 in so far as not already in force) by the Pensions Act 1995 (c. 26), s. 180(1), Sch. 6 para. 6(e); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II)
- C5** S. 10 applied (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. **2(4)**, 89(5)(a) (with s. 8(6)); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 73(c); S.I. 2005/695, art. 2(7), Sch. 1)
- C6** S. 10 applied (11.11.1999 for specified purposes, 6.4.2001 for specified purposes, 8.10.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. **3(7)**, 89(5)(a) (with s. 8(6)); S.I. 2001/933, arts. 5(a), 6
- C7** S. 10 applied (11.11.1999 for specified purposes; 1.12.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), ss. **33(2)(3)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- C8** S. 10 applied (with modifications) by Pension Schemes Act 1993 (c. 48), s. **111A(8)(9)(11)** (as amended (11.11.1999 for specified purposes; 6.4.2001 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), ss. 9, 89(5)(a); S.I. 2000/2958, art. 2(1); Pensions Act 2004 (c. 35), ss. 268(4), 322(1) (with s. 313); S.I. 2006/560, art. 2(3), Sch. Pt. 3)
- C9** S. 10 applied by Pension Schemes Act 1993 (c. 48), s. **101H(4)** (as inserted (11.11.1999 for specified purposes; 1.12.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), ss. 37, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV)
- C10** S. 10 applied (S.) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), **reg. 149(1)(2)** (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by S.S.I. 2001/23, regs. 1(2), 4)
- C11** S. 10 applied (S.) by The Firemen's Pension Scheme Order 1992 (S.I. 1992/129), **Sch. 2 rule N10** (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by S.S.I. 2001/310, arts. 1(2), 3)
- C12** S. 10 applied (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. **33(1)-(3)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- C13** S. 10 applied by The National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365), **reg. W10** (as inserted (28.1.2002 with effect in accordance with art. 1(2) of the amending S.S.I.) by S.S.I. 2001/465, reg. 1(2), sch. 1 para. 3)
- C14** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), ss. **13(8)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C15** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), ss. **14(6)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C16** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), ss. **20(11)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C17** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), ss. **21(5)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7

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- C18** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 30(5)(7)(a)(8)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C19** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 30(8)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C20** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 31(5)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C21** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 41(5)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C22** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 50(5)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C23** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 62(6)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C24** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 64(2)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C25** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 69(7)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C26** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 70(4)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C27** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 71(7)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C28** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 133(11)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C29** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **s. 134(5)(6)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C30** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 135(10)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C31** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 138(9)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C32** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 140(4)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C33** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 154(9)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C34** S. 10 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 219(5)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- C35** S. 10 applied (30.6.2005) by Pensions Act 2004 (c. 35), **ss. 256(3)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(8)
- C36** S. 10 applied (1.7.2005 for specified purposes, 22.9.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 252(5)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(14)(a)(b), Sch. Pt. 1
- C37** S. 10 applied (1.7.2005 for specified purposes, 22.9.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 255(3)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(14)(a)(b), Sch. Pt. 1
- C38** S. 10 applied (with effect in accordance with reg. A1(1)(b) of the amending S.S.I.) by The Teachers Superannuation (Scotland) Regulations 2005 (S.S.I. 2005/393), **reg. F9(1)(b)(2)**
- C39** S. 10 applied (1.11.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 241(9)**, 322(1) (with s. 313); S.I. 2005/2447, art. 2(1)(a)(5)(b), Sch. Pts. 1, 2
- C40** S. 10 applied (1.11.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 242(11)**, 322(1) (with s. 313); S.I. 2005/2447, art. 2(1)(a)(5)(b), Sch. Pts. 1, 2
- C41** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 223(4)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C42** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 224(8)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C43** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 225(3)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1

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- C44** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 226(7)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C45** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 227(8)(9)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C46** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 228(4)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C47** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 229(6)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C48** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 230(4)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C49** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 287(5)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1 (with art. 3)
- C50** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 291(3)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C51** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 292(3)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C52** S. 10 applied (4.12.2005 for specified purposes, 30.12.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 293(7)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(1)(a)(b), Sch. Pt. 1
- C53** S. 10 applied (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 253(6)**, 322(1) (with s. 313); S.I. 2005/3331, art. 2(5)(a)(b), Sch. Pt. 5
- C54** S. 10 applied by Pensions Act 2004 (c. 35), **s. 231A(7)** (as inserted (24.7.2006) by S.I. 2006/1733, art. 2(7), reg. 1)
- C55** S. 10 applied (6.4.2007) by Pensions Act 2004 (c. 35), **ss. 153(8)**, 322(1) (with s. 313); S.I. 2006/2272, art. 2(7), Sch. Pt. 2
- C56** S. 10 applied (6.4.2007) by Pensions Act 2004 (c. 35), **ss. 157(8)**, 322(1) (with s. 313); S.I. 2006/2272, art. 2(7), Sch. Pt. 2
- C57** S. 10: power to apply conferred (26.11.2008) by Pensions Act 2008 (c. 30), **ss. 60(2)**, 149(2)
- C58** S. 10 applied by Pension Schemes Act 1993 (c. 48), **s. 24H(5)** (as inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b))
- C59** S. 10 applied (1.4.2011) by The National Health Service Superannuation Scheme (Scotland) Regulations 2011 (S.S.I. 2011/117), regs. A1(2), **V10(1)(b)(2)**
- C60** S. 10(3)-(9) applied (1.9.2005) by Pensions Act 2004 (c. 35), **ss. 314(a)**, 322(1) (with s. 313); S.I. 2005/2447, art. 2(4), Sch. Pt. 1
- C61** S. 10(3)-(9) applied (30.12.2005) by The Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005 (S.I. 2005/3380), regs. 1, **3(4)**, 4(3), 6(4), 7(4), 8(2), 10(7), 12(4)

Commencement Information

- I6** S. 10 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**
- I7** S. 10(1) in force at 1.6.1996 for specified purposes by S.I. 1996/1412, art. 2(2), **Sch. Pt. II**
- I8** S. 10(2)(3) in force at 6.4.1996 for specified purposes by S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**

11 Powers to wind up schemes.

- (1) Subject to the following provisions of this section, the Authority may by order direct or authorise an occupational pension scheme to be wound up if they are satisfied that—
- the scheme, or any part of it, ought to be replaced by a different scheme,
 - the scheme is no longer required, or
 - it is necessary in order to protect the interests of the generality of the members of the scheme that it be wound up.

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- (2) The Authority may not make an order under this section on either of the grounds referred to in subsection (1)(a) or (b) unless they are satisfied that the winding up of the scheme—
- (a) cannot be achieved otherwise than by means of such an order, or
 - (b) can only be achieved in accordance with a procedure which—
 - (i) is liable to be unduly complex or protracted, or
 - (ii) involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty,
 and that it is reasonable in all the circumstances to make the order.
- ^{F32}(3)
- [^{F33}(3A) The Authority may, during an assessment period (within the meaning of section 132 of the Pensions Act 2004 (meaning of “assessment period” for the purposes of Part 2 of that Act)) in relation to an occupational pension scheme, by order direct the scheme to be wound up if they are satisfied that it is necessary to do so in order—
- (a) to ensure that the scheme’s protected liabilities do not exceed its assets, or
 - (b) if those liabilities do exceed its assets, to keep the excess to a minimum.
- (3B) In subsection (3A)—
- (a) “protected liabilities” has the meaning given by section 131 of the Pensions Act 2004, and
 - (b) references to the assets of the scheme are references to those assets excluding any assets representing the value of any rights in respect of money purchase benefits (within the meaning of that Act) under the scheme.]

(4) An order under this section authorising a scheme to be wound up must include such directions with respect to the manner and timing of the winding up as the Authority think appropriate having regard to the purposes of the order.

[^{F34}This subsection is subject to sections 28, 135 and 219 of the Pensions Act 2004 (winding up order made when freezing order has effect in relation to scheme, during assessment period under Part 2 of that Act etc).]

(5) The winding up of a scheme in pursuance of an order of the Authority under this section is as effective in law as if it had been made under powers conferred by or under the scheme.

(6) An order under this section may be made and complied with in relation to a scheme—

 - (a) in spite of any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the winding up, or
 - (b) except for the purpose of the Authority determining whether or not they are satisfied as mentioned in subsection (2), without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent, with a view to the winding up.

[^{F35}(6A) Subsection (6) does not have effect to authorise the Authority to make an order as mentioned in paragraph (a) or (b) of that subsection, if their doing so would be unlawful as a result of section 6(1) of the Human Rights Act 1998 (unlawful for public authority to act in contravention of a Convention right).]

(7) In the case of a public service pension scheme—

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- (a) an order under subsection (1) directing or authorising the scheme to be wound up may only be made on the grounds referred to in paragraph (c), and
- (b) such an order may, as the Authority think appropriate, adapt, amend or repeal any enactment [^{F36}(including the Scottish Parliamentary Pensions Act 2009 (asp 1))] in which the scheme is contained or under which it is made.

Textual Amendments

- F32** S. 11(3) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 22(a), 322(1), **Sch. 13** (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F33** S. 11(3A)(3B) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 22(b)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F34** Words in s. 11(4) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 22(c)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F35** S. 11(6A) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 22(d)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3)
- F36** Words in s. 11(7)(b) inserted (1.9.2009) by The Scottish Parliamentary Pensions Act 2009 (Consequential Modifications) Order 2009 (S.I. 2009/1682), art. 1(1), **Sch. para. 1**

Modifications etc. (not altering text)

- C1** **Ss. 3-11** modified in part (11.11.1999 for specified purposes; 1.10.2000 in so far as not already in force) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)** (i); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))

Commencement Information

- I9** S. 11 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

12 Powers to wind up public service schemes.

- (1) The appropriate authority may by order direct a public service pension scheme to be wound up if they are satisfied that—
 - (a) the scheme, or any part of it, ought to be replaced by a different scheme, or
 - (b) the scheme is no longer required.
- (2) Subsection (2) of section 11 applies for the purposes of this section as it applies for the purposes of that, but as if references to the Authority were to the appropriate authority.
- (3) In this section “the appropriate authority”, in relation to a scheme, means such Minister of the Crown or government department as may be designated by the Treasury as having responsibility for the particular scheme.
- (4) An order under this section must include such directions with respect to the manner and timing of the winding up as that authority think appropriate.
- (5) Such an order may, as that authority think appropriate, adapt, amend or repeal any enactment in which the scheme is contained or under which it is made.

Commencement Information

- I10** S. 12 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

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^{F37} 13 Injunctions and interdicts.

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Textual Amendments

F37 S. 13 repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), **Sch. 1**

14 Restitution.

- (1) If, on the application of the Authority, the court is satisfied—
- (a) that a power to make a payment, or distribute any assets, to the employer, has been exercised in contravention of section 37, 76 or 77, or
 - (b) that any act or omission of the trustees or managers of an occupational pension scheme was in contravention of section 40,
- the court may order the employer and any other person who appears to the court to have been knowingly concerned in the contravention to take such steps as the court may direct for restoring the parties to the position in which they were before the payment or distribution was made, or the act or omission occurred.
- (2) The jurisdiction conferred by this section is exercisable by the High Court or the Court of Session.

Commencement Information

I11 S. 14 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

15 Directions.

- (1) The Authority may, where in the case of any trust scheme the employer fails to comply with any requirement included in regulations by virtue of section 49(5), direct the trustees to make arrangements for the payment to the members of the benefit to which the requirement relates.
- (2) The Authority may—
- (a) where in the case of any trust scheme an annual report is published, direct the trustees to include a statement prepared by the Authority in the report, and
 - (b) in the case of any trust scheme, direct the trustees to send to the members a copy of a statement prepared by the Authority.
- (3) A direction under this section must be given in writing.
- (4) Where a direction under this section is not complied with, [^{F38}section 10 applies] to any trustee who has failed to take all such steps as are reasonable to secure compliance.

Textual Amendments

F38 Words in s. 15(4) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 39**; S.I. 2005/695, art. 2(7), **Sch. 1**

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Modifications etc. (not altering text)

C62 S. 15 modified in part (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(i)**; S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3 (as amended (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 76(2)(a))

Commencement Information

I12 S. 15 in force at 6.4.1997 by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

Status:

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