



# Pensions Act 1995

## 1995 CHAPTER 26

### PART I

#### OCCUPATIONAL PENSIONS

##### *Independent trustees*

#### **23 Requirement for independent trustee**

- (1) While section 22 applies in relation to a scheme, the practitioner or official receiver must—
  - (a) satisfy himself that at all times at least one of the trustees of the scheme is an independent person, and
  - (b) if at any time he is not so satisfied, appoint under this paragraph, or secure the appointment of, an independent person as a trustee of the scheme.
- (2) The duty under subsection (1)(b) must be performed as soon as reasonably practicable and, if a period is prescribed for the purposes of that subsection, within that period.
- (3) For the purposes of subsection (1) a person is independent only if—
  - (a) he has no interest in the assets of the employer or of the scheme, otherwise than as trustee of the scheme,
  - (b) he is neither connected with, nor an associate of—
    - (i) the employer,
    - (ii) any person for the time being acting as an insolvency practitioner in relation to the employer, or
    - (iii) the official receiver, acting in any of the capacities mentioned in section 22(1)(b) in relation to the employer, and
  - (c) he satisfies any prescribed requirements;and any reference in this Part to an independent trustee shall be construed accordingly.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Where, apart from this subsection, the duties imposed by subsection (1) in relation to a scheme would fall to be discharged at the same time by two or more persons acting in different capacities, those duties shall be discharged—
- (a) if the employer is a company, by the person or persons acting as the company's liquidator, provisional liquidator or administrator, or
  - (b) if the employer is an individual, by the person or persons acting as his trustee in bankruptcy or interim receiver of his property or as permanent or interim trustee in the sequestration of his estate.
- (5) References in this section to an individual include, except where the context otherwise requires, references to a partnership and to any debtor within the meaning of the Bankruptcy (Scotland) Act 1985.