



# Child Support, Pensions and Social Security Act 2000

## 2000 CHAPTER 19

### PART II

#### PENSIONS

### CHAPTER II

#### OCCUPATIONAL AND PERSONAL PENSION SCHEMES

##### *Selection of trustees and of directors of corporate trustees*

#### **43 Member-nominated trustees**

- (1) Section 16 of the Pensions Act 1995 (requirements for trustees to be nominated and selected by members of the scheme) shall be amended in accordance with subsections (2) to (8) of this section.
- (2) In subsection (1) (duty of trustees to make arrangements for selection of member-nominated trustees)—
  - (a) the words “(subject to section 17)” and in paragraph (b), the words “, and the appropriate rules,” shall be omitted; and
  - (b) in paragraph (a), for “persons selected” there shall be substituted “the selection of persons nominated”.
- (3) In subsection (3)(a) (selected persons to be trustees), for “in accordance with the appropriate rules” there shall be substituted “as a member-nominated trustee”.
- (4) In subsection (4) (procedure for filling vacancies unfilled because of insufficient nominations), for “the appropriate rules” there shall be substituted “regulations”.

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- (5) In subsection (5) (period of service as a member-nominated trustee), after “six years” there shall be inserted “but for a member-nominated trustee to be eligible for selection again at the end of any period of service as such a trustee.”
- (6) After subsection (6) there shall be inserted—
- “(6A) The arrangements must provide that, where the employer so requires, a person who is not a qualifying member of the scheme must have the employer’s approval to qualify for selection as a member-nominated trustee.”
- (7) In subsection (8) (persons ceasing to be member-nominated trustees on ceasing to be qualifying members of the scheme)—
- (a) for “The arrangements must” there shall be substituted “The arrangements—
- (a) must”; and
- (b) at the end there shall be inserted “; and
- (b) may provide for a member-nominated trustee who—
- (i) is a qualifying member of one of the following descriptions, that is to say, an active, deferred or pensioner member, and
- (ii) ceases (without ceasing to be a qualifying member) to be a qualifying member of that description, to cease, by virtue of that fact, to be a trustee.”
- (8) After subsection (8) there shall be inserted—
- “(9) Regulations may make provision in relation to arrangements under this section—
- (a) supplementing the requirements of this section as to the matters to be contained in the arrangements; and
- (b) providing for the manner in which, and the time within which, persons are, for the purposes of the arrangements, to be nominated and selected as member-nominated trustees.
- (10) This section does not apply in the case of a trust scheme if—
- (a) every member of the scheme is a trustee of the scheme and no other person is such a trustee;
- (b) every trustee of the scheme is a company; or
- (c) the scheme is of a prescribed description.”
- (9) Section 17 of that Act (exceptions to section 16 where the employer’s alternative proposals are approved) shall cease to have effect.

#### **44 Corporate trustees**

- (1) Section 18 of the Pensions Act 1995 (requirements for member-nominated directors of trustee company) shall be amended in accordance with subsections (2) to (9) of this section.
- (2) In subsection (1) (duty of corporate trustee to make arrangements for selection of member-nominated directors)—
- (a) for the words from “and the employer” to “satisfied” there shall be substituted “and there is no trustee of the scheme who is not a company”;

- (b) the words “, subject to section 19,” and in paragraph (b), the words “, and the appropriate rules,” shall be omitted; and
  - (c) in paragraph (a), for “persons selected” there shall be substituted “the selection of persons nominated”.
- (3) In subsection (3)(a) (selected persons to be directors), for “in accordance with the appropriate rules” there shall be substituted “as a member-nominated director”.
- (4) In subsection (4) (procedure for filling vacancies unfilled because of insufficient nominations), for “the appropriate rules” there shall be substituted “regulations”.
- (5) In subsection (5) (period of service as a member-nominated director), after “six years” there shall be inserted “but for a member-nominated director to be eligible for selection again at the end of any period of service as such a director.”
- (6) After subsection (6) there shall be inserted—
  - “(6A) The arrangements must provide that, where the employer so requires, a person who is not a qualifying member of the scheme must have the employer’s approval to qualify for selection as a member-nominated director.”
- (7) In subsection (7) (persons ceasing to be member-nominated directors on ceasing to be qualifying members of the scheme)—
  - (a) for “The arrangements must” there shall be substituted “The arrangements—
    - (a) must”; and
    - (b) at the end there shall be inserted “; and
      - (b) may provide for a member-nominated director who—
        - (i) is a qualifying member of one of the following descriptions, that is to say, an active, deferred or pensioner member, and
        - (ii) ceases (without ceasing to be a qualifying member) to be a qualifying member of that description, to cease, by virtue of that fact, to be a director.”
- (8) For subsection (8) (companies that are trustees of two or more different trust schemes) there shall be substituted—
  - “(8) Where—
    - (a) the same company is a trustee of two or more schemes by reference to each of which this section applies to the company, and
    - (b) the company does not, in the prescribed manner, elect that this subsection should not apply,the preceding provisions of this section and section 21(8) shall have effect as if those schemes were a single scheme and the members of each of the schemes were members of that single scheme.”
- (9) After subsection (8) there shall be inserted—
  - “(9) Regulations may make provision in relation to arrangements under this section—
    - (a) supplementing the requirements of this section as to the matters to be contained in the arrangements; and

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- (b) providing for the manner in which, and the time within which, persons are, for the purposes of the arrangements, to be nominated and selected as member-nominated directors.

(10) This section does not apply in the case of a trust scheme if the scheme is of a prescribed description.”

- (10) Sections 19 and 20 of that Act (exceptions to section 18 where the employer’s alternative proposals are approved and meaning of “appropriate rules”) shall cease to have effect.

#### **45 Employer’s proposals for selection of trustees or directors**

- (1) After section 18 of the Pensions Act 1995 there shall be inserted—

*“Further provisions about the selection of trustees and directors*

##### **18A Employer’s proposals for selection of trustees or directors**

- (1) Where, in the case of any trust scheme—
  - (a) the employer makes proposals for the adoption of arrangements for the nomination and selection of the trustees of the scheme,
  - (b) the proposed arrangements comply with all the requirements of section 16 and do not contain anything inconsistent with those requirements,
  - (c) the proposed arrangements comply with such other requirements as may be prescribed,
  - (d) the proposed arrangements are approved under such procedure for obtaining the views of members of the scheme as may be prescribed, and
  - (e) such other conditions are satisfied as may be prescribed,
 the trustees of the scheme shall secure that the proposed arrangements are made and implemented.
- (2) Where, in the case of any company which is trustee of a trust scheme of which there is no trustee who is not a company—
  - (a) the employer makes proposals for the adoption of arrangements for the nomination and selection of the directors of the company,
  - (b) the proposed arrangements comply with all the requirements of section 18 and do not contain anything inconsistent with those requirements,
  - (c) the proposed arrangements comply with such other requirements as may be prescribed,
  - (d) the proposed arrangements are approved under such procedure for obtaining the views of members of the scheme as may be prescribed, and
  - (e) such other conditions are satisfied as may be prescribed,
 the company shall secure that the proposed arrangements are made and implemented.

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- (3) Arrangements made and implemented under this section may include provision that is different from that for which provision is made by regulations under section 16(9) or 18(9).
  - (4) Regulations may make provision—
    - (a) as to the manner in which, and the time within which, arrangements proposed and approved for the purposes of this section are to be implemented by the trustees of a trust scheme or by a company which is a trustee of a trust scheme; and
    - (b) as to what is to happen where an approval for the purposes of this section of any arrangements ceases, in accordance with regulations, to have effect.
  - (5) Regulations about the manner in which anything is approved for the purposes of this section may provide—
    - (a) for it to be treated as approved in accordance with the prescribed procedure where the Authority determine that prescribed conditions have been satisfied in relation to any departures from that procedure that have occurred; and
    - (b) for persons who do not object to it to be treated as having approved it.
  - (6) Regulations may provide that, for the purposes of this section and any arrangements under this section, arrangements are to be taken as complying with the requirements of section 16 or 18, and as being consistent with those requirements, notwithstanding that nominations made for the purposes of the arrangements by a person or organisation which—
    - (a) represents for any particular purposes the interests of persons who are comprised in the membership of the scheme in question, and
    - (b) is of such a description as is specified in the regulations,are to be treated under the arrangements as nominations, or as the only nominations, made by qualifying members of the scheme.
  - (7) Provision made by or under the preceding provisions of this section with respect to member-nominated trustees does not apply in the case of a trust scheme if—
    - (a) every member of the scheme is a trustee of the scheme and no other person is such a trustee; or
    - (b) every trustee of the scheme is a company.
  - (8) Provision made by or under the preceding provisions of this section does not apply if the scheme is of a prescribed description.”
- (2) In section 68(2)(b) of that Act (power of trustee to modify scheme), for “17(2)” there shall be substituted “18A(1)”.
  - (3) In section 117(2)(c) of that Act (overriding requirements), for “17(2)” there shall be substituted “18A(1)”.

#### **46 Non-compliance in relation to arrangements or proposals**

- (1) In section 21 of the Pensions Act 1995 (consequences for trustees of failure to implement arrangements)—

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- (a) in subsections (1) and (2), the words “, or the appropriate rules,” shall be omitted;
  - (b) in subsections (1) and (3), for “17(2)”, in each place, there shall be substituted “18A(1)”;
  - (c) in subsection (2), for “19(2)”, in each place, there shall be substituted “18A(2)”;
  - (d) in subsection (3), the words “or rules” shall be omitted;
  - (e) in subsection (4), for “17(2), 18(1) or 19(2)” there shall be substituted “18(1) or 18A(1) or (2)” and the words “(or further arrangements)” in paragraph (a), paragraph (b) and the word “and” immediately preceding it shall be omitted;
  - (f) subsection (5) shall cease to have effect;
  - (g) in subsection (6), for “20” there shall be substituted “18A”;
  - (h) in subsection (7), for “16 to 20” there shall be substituted “16 and 18” and the words “and this section”, paragraph (b) and the word “and” immediately preceding paragraph (b) shall be omitted;
  - (i) in subsection (8)(a), for the words from “of the appropriate” to “given” there shall be substituted “for the purposes of section 18A of proposed arrangements must be given, in accordance with regulations under that section,”; and
  - (j) paragraph (b) of subsection (8) and the word “and” immediately preceding it shall be omitted.
- (2) In subsection (1) of that section, after paragraph (b) there shall be inserted “or  
(c) regulations under section 16(9)(b) have not been complied with,”.
- (3) In subsection (2) of that section, after paragraph (b) there shall be inserted “or  
(c) regulations under section 18(9)(b) have not been complied with,”.
- (4) After subsection (2) of that section there shall be inserted—  
“(2A) Section 10 applies to an employer who has made a proposal for the purposes of section 18A but who contravenes any requirements of any regulations under section 18A relating to the submission of that proposal for approval.”
- (5) After subsection (6) there shall be inserted—  
“(6A) In sections 16 to 18A “company” means a company within the meaning given by section 735(1) of the Companies Act 1985 or a company which may be wound up under Part V of the Insolvency Act 1986 (unregistered companies).”