



Pensions Act 2004

2004 CHAPTER 35

PART 5

OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

Restrictions on payment into occupational pension schemes

252 UK-based scheme to be trust with effective rules

- (1) Subsections (2) and (3) apply to an occupational pension scheme that has its main administration in the United Kingdom.
- (2) If the scheme is not established under irrevocable trusts, the trustees or managers of the scheme must secure that no funding payment is accepted.
- (3) If the rules stipulating—
 - (a) the benefits under the scheme, and
 - (b) any conditions subject to which benefits under the scheme accrue,are not in force, or if those rules are not set out in writing, the trustees or managers of the scheme must secure that no funding payment is accepted.
- (4) Subsection (2) or (3) does not apply to an occupational pension scheme if it is a prescribed scheme or a scheme of a prescribed description.
- (5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee or manager of an occupational pension scheme that has its main administration in the United Kingdom if—
 - (a) subsection (2) or (3) requires the trustees or managers of the scheme to secure that no funding payment is accepted,
 - (b) a funding payment is accepted, and
 - (c) the trustee or manager has failed to take all reasonable steps to secure that no funding payment is accepted.

- (6) In this section “funding payment”, in relation to a scheme, means a payment made to the scheme to fund benefits for, or in respect of, any or all of the members.

253 Non-European scheme to be trust with UK-resident trustee

- (1) Subsections (2) and (3) apply to an occupational pension scheme that has its main administration outside the member States.
- (2) An employer based in any part of the United Kingdom may cause a contribution to be paid to the scheme in respect of an employee (whether or not employed in the United Kingdom) only if the conditions in subsection (4) are satisfied at the time of payment.
- (3) An employer based outside the United Kingdom may cause a contribution to be paid to the scheme in respect of an employee employed in the United Kingdom only if the conditions in subsection (4) are satisfied at the time of payment.
- (4) Those conditions are—
- (a) that the scheme is established under irrevocable trusts, and
 - (b) that a trustee of the scheme is resident in the United Kingdom.
- (5) Subsection (2) or (3) does not apply to an occupational pension scheme if it is a prescribed scheme or a scheme of a prescribed description.
- (6) Section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to an employer who causes a contribution to be paid to an occupational pension scheme that has its main administration outside the member States if—
- (a) subsection (2) or (3) applies in relation to the payment of the contribution,
 - (b) the conditions in subsection (4) are not satisfied at the time of payment, and
 - (c) the employer does not have a reasonable excuse for causing payment to occur at a time when those conditions are not satisfied.
- (7) In this section “based”—
- (a) in relation to an employer who is a body corporate, means incorporated, and
 - (b) in relation to any other employer, means resident.

254 Representative of non-European scheme to be treated as trustee

- (1) In the case of an occupational pension scheme that has its main administration outside the member States, a reference in pensions legislation to the trustees, or a trustee, of the scheme includes a person who is for the time being appointed by the trustees of the scheme to be a representative of the scheme for the purposes of this section.
- (2) Subsection (1) does not apply to a prescribed reference.
- (3) In subsection (1) “pensions legislation” means any enactment contained in or made by virtue of—
- (a) the Pension Schemes Act 1993 (c. 48),
 - (b) the Pensions Act 1995,
 - (c) Parts 1 to 4 of the Welfare Reform and Pensions Act 1999 (c. 30), or
 - (d) this Act.