Draft Order laid before Parliament under paragraphs 1, 2 and 3 of Schedule 7 to the Scotland Act 1998, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2026 No.

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

PENSIONS

The Trusts and Succession (Scotland) Act 2024 (Consequential Provisions and Modifications) (Pension Schemes) Order 2026

Made - - - -	***
Coming into force - -	***

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1), 113(3) and 113(5) of the Scotland Act 1998(**a**).

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Trusts and Succession (Scotland) Act 2024 (Consequential Provisions and Modifications) (Pension Schemes) Order 2026 and comes into force on the day after the day on which it is made.

(1) Articles 1 and 11 extend to England and Wales and Scotland.

(2) Articles 2 to 10 extend to Scotland.

(3) Any modification made by the Schedule has the same extent as the enactment to which it relates.

Interpretation

2. In this Order—

"the 2024 Act" means the Trusts and Succession (Scotland) Act 2024(**b**);

"occupational pension scheme" means a pension scheme which is an occupational pension scheme (including for the avoidance of doubt any occupational pension scheme that is a public

(**a**) 1998 c. 46. There are amendments to sections 104, 112 and 113 which are not relevant to this Order.
(**b**) 2024 asp 2.

service pension scheme) within the meaning of section 1 of the Pension Schemes Act 1993(**a**) which is established under a trust and subject to the law of Scotland;

"pension scheme" means any pension scheme established under a trust;

"personal pension scheme" means a pension scheme which is a personal pension scheme within the meaning of section 1 of the Pension Schemes Act 1993 which is established under a trust and subject to the law of Scotland.

Application of the 2024 Act to pension schemes

3.—(1) Except as otherwise provided in articles 4 to 10, the 2024 Act applies to pension schemes.

(2) The definition of "trust" in section 81 (interpretation) of the 2024 Act is to be construed in accordance with paragraph (1).

(3) The application of the 2024 Act to pension schemes does not limit the application of any provision of pensions legislation.

(4) In paragraph (3) "pensions legislation" includes any enactment contained in or made by virtue of any of—

(a) the enactments listed in section 13(7) of the Pensions Act 2004(**b**),

(b) the Financial Services and Markets Act 2000(**c**).

Provisions that do not apply to occupational pension schemes

4. The following provisions of the 2024 Act do not apply to occupational pension schemes—

(a) section 9 (removal of trustee by co-trustees),

(b) section 10 (removal of trustee by beneficiaries),

(c) section 13 (decisions: preliminary),

(d) section 14 (making of decision),

(e) section 18 (power of investment),

(f) section 19 (exercise of power of investment),

(g) section 20 (exercise of power of investment: further provision),

(h) section 21 (charitable trusts: sale of property),

(i) section 23 (appointment of nominees),

(j) section 29 (trustees' duty to provide information other than on request),

(k) section 30 (trustees' duty to provide information on request),

(l) chapter 6 of Part 1 (private purpose trusts),

(m) chapter 7 of Part 1 (protectors),

(n) section 65 (alteration of trust purposes on material change in circumstances).

Provisions that apply with limitations or modifications to occupational pension schemes

5. Section 15 (general powers of trustees) does not confer any powers of investment on trustees of occupational pension schemes.

(**a**) 1993 c. 48. Section 1 was amended by section 239 of the Pensions Act 2004 (c. 35), paragraph 1 of Part 3(2) of Schedule 27 to the Finance Act 2007 (c. 11) and regulation 2(2) of the Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192).

(**b**) 2004 c. 35. Section 13(7) was amended by paragraph 3(3)(a) and (b) of Schedule 4 to the Public Service Pensions Act 2013 (c. 25), regulation 25(a) and (b) of the Occupational Pension Schemes (Charges and Governance Regulations 2015 (S.I. 2015/879), paragraph 24(a) and (b) of Schedule 2 to the Pensions Scheme Act 2015 (c. 8), paragraph 6(a) to (c) of Schedule 3 to the Pension Schemes Act 2017 (c. 17) and paragraph 12 of Schedule 3 to the Pension Schemes Act 2021 (c. 1).

(**c**) 2000 c. 8.

6. Section 17 (power to take out insurance) applies to occupational pension schemes subject to section 256 of the Pensions Act 2004(**a**) (no indemnification for fines or civil penalties) (without limiting article 3(3) above).

7.—(1) Section 22 (delegation and the appointment of agents) does not authorise the trustees of an occupational pension scheme to—

(a) delegate their investment management functions to an agent for a period which exceeds 12 months; or

(b) authorise any person who is—

(i) an employer in relation to the scheme; or

(ii) connected with or an associate of such an employer,

to exercise any of their functions as their agent.

(2) For the purposes of paragraph (1)—

(a) "employer", in relation to a scheme, has the same meaning as in the Pensions Act 1995(**b**);

(b) sections 249 and 435 of the Insolvency Act 1986(**c**) apply for the purpose of determining whether a person is connected with or an associate of an employer.

8. Section 31 (trustees' duty of care etc.) applies to occupational pension schemes subject to sections 33 to 36 of the Pensions Act 1995 (without limiting article 3(3) above).

Provisions that do not apply to personal pension schemes

9. The following provisions of the 2024 Act do not apply to personal pension schemes—

(a) section 10 (removal of trustee by beneficiaries),

(b) section 21 (charitable trusts: sale of property),

(c) section 29 (trustees' duty to provide information other than on request),

(d) section 30 (trustees' duty to provide information on request),

(e) chapter 6 of Part 1 (private purpose trusts),

(f) chapter 7 of Part 1 (protectors),

(g) section 65 (alteration of trust purposes on material change in circumstances).

Sections that apply with limitations or modifications to personal pension schemes

10. Section 17 (power to take out insurance) applies to personal pension schemes subject to section 256 of the Pensions Act 2004 (no indemnification for fines or civil penalties) (without limiting article 3(3) above).

(**a**) Section 256 was amended by section 17(a) and (b) of the Pensions Act 2011 (c. 19), paragraph 10 of Schedule 18 to the Pensions Act 2014 (c. 19), paragraph 10 of Schedule 7 to the Pension Schemes Act 2021 (c. 1), section 1(1) of the Pension Dashboards (Prohibition of Indemnification) Act 2023 (c. 14) and section 39 of the Pension Schemes Act 2026 (c. 22).

(**b**) 1995 c. 26.

(**c**) 1986 c. 45. Section 435 was amended by paragraph 122(2) to (4) of Schedule 27 to the Civil Partnership Act 2004 (c. 33), paragraph 8 of Schedule 4 to the Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), paragraph 82(2) of Schedule 1 to the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941) and paragraph 4(10) of Schedule 1 to the Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034).

Modifications of enactments

11. The Schedule makes provision for the modification of enactments.

Name
Secretary of State
Scotland Office

Address
Date

SCHEDULE

Article 11

Modification of enactments

Pensions Act 1995

1. In section 34(2)(b) of the Pensions Act 1995(**a**) (restrictions on delegation of investment functions) for the words from "section 25" to the end substitute—

"(i) subsection (5),

(ii) section 25 of the Trustee Act 1925 (delegation of trustee's functions by power of attorney); or

(iii) section 22 of the Trusts and Succession (Scotland) Act 2024 (delegation and the appointment of agents).".

Trusts and Succession (Scotland) Act 2024

2.—(1) The Trusts and Succession (Scotland) Act 2024 is amended as follows.

(2) In the opening words of section 22(1) (delegation and the appointment of agents), after "section" insert "and the Trusts and Succession (Scotland) Act 2024 (Consequential Provisions and Modifications) (Pension Schemes) Order 2026(**b**)".

(3) In section 81 (interpretation), in the definition of "trust", after "does not" insert ", except as otherwise provided in the Trusts and Succession (Scotland) Act 2024 (Consequential Provisions and Modifications) (Pension Schemes) Order 2026,".

(**a**) Section 34(2)(b) was amended (for the purposes of the law of England and Wales) by section 5(3) of the Trustee Delegation Act 1999 (c. 15).

(**b**) S.I. 2026/XXXX.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the Trusts and Succession (Scotland) Act 2024 ("the 2024 Act").

The 2024 Act excludes pension schemes established under a trust. This is because the regulation of occupational pension schemes and personal pension schemes, including the obligation of the trustees or managers of such schemes is reserved under the Scotland Act 1998. This Order applies the scheme of the 2024 Act to pension schemes established under a trust.

Article 3 applies the 2024 Act to pension schemes, except as provided in articles 4 to 11 of this Order. The definition of "trust" in section 81 (interpretation) of the 2024 Act is to be construed accordingly. The application of the 2024 Act to pension schemes is without prejudice to the application of any provision of pensions legislation.

Articles 4 to 10 disapply, limit or modify certain provisions of the 2024 Act in relation to occupational pension schemes or personal pension schemes.

Article 11 and the Schedule make consequential amendments to—

- section 34(2)(b) of the Pensions Act 1995 (restrictions on delegation of investment functions) to refer to section 22 of the 2024 Act;
- section 22(1) of the 2024 Act (delegation and appointment of agents) to make clear that the application of section 22 is restricted by article 7 of this Order and;
- section 81 of the 2024 Act to make the application to pensions schemes clear in that Act.

An impact assessment has not been prepared for this instrument as a full range of impact assessments were carried out in relation to the Trusts and Succession (Scotland) Act 2024. These can be obtained on the Scottish Government's website as follows:

- Business and Regulatory Impact Assessment - https://www.gov.scot/publications/trusts-succession-scotland-bill-business-regulatory-impact-assessment/
- Equality Impact Assessment - https://www.gov.scot/publications/trusts-succession-scotland-bill-equality-impact-assessment-record/
- Island Communities Impact Assessment - https://www.gov.scot/publications/trusts-succession-scotland-bill-islands-communities-impact-assessment-icia/
- Child Rights and Welfare Impact Assessment - https://www.gov.scot/publications/trusts-succession-scotland-bill-child-rights-welfare-impact-assessment-screening/

© Crown copyright 2026

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

£8.90

http://www.legislation.gov.uk/id/ukdsi/2026/9780348288216

ISBN 978-0-34-828821-6

