
STATUTORY INSTRUMENTS

1992 No. 246

PENSIONS

**The Occupational Pension Schemes (Investment
of Scheme's Resources) Regulations 1992**

<i>Made</i>	- - - -	<i>12th February 1992</i>
<i>Laid before Parliament</i>		<i>17th February 1992</i>
<i>Coming into force</i>	- -	<i>9th March 1992</i>

The Secretary of State for Social Security, in exercise of his powers under sections 166(1) to (3) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(1), sections 56A(1), 57A(1), and 66(2) and (4) of the Social Security Pensions Act 1975(2) and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the proposals referred to them(3), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Investment of Scheme's Resources) Regulations 1992.

(2) These Regulations shall come into force on 9th March 1992.

(3) In regulations 2 to 5—

“member” means a person who is in pensionable service for the purposes of the scheme in question or, as the case may be, a person who qualifies for benefits under the scheme in question by reason of his pensionable service;

“pensionable service” has the same meaning as in paragraph 3(1) of Schedule 16 to the Social Security Act 1973(4) (preservation requirements: interpretation);

“scheme” means an occupational pension scheme;

and any reference to a numbered regulation or paragraph is a reference to the regulation or paragraph which bears that number in these Regulations.

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- (1) 1975 c. 14. See definitions of “prescribe” and “regulations” in Schedule 20. Sections 166(1) to (3) and 168(1) apply, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c. 60), to the exercise of certain powers conferred by that Act.
- (2) 1975 c. 60. Section 56A(1) was inserted by Schedule 2 to the Social Security Act 1985 (c. 53). Section 57A was inserted by paragraph 3 of Schedule 4 to the Social Security Act 1990 (c. 27).
- (3) See section 61(2) of the Social Security Pensions Act 1975.
- (4) 1973 c. 38.

Schemes to which Regulation 3 applies

- 2.—(1) Subject to paragraph (2), regulation 3 applies to schemes—
- (a) which either—
 - (i) are approved for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988⁽⁵⁾ (retirement benefit schemes) or are the subject of an application for such approval which has not been determined; or
 - (ii) are exempt from income tax under section 608 of that Act (exemption for superannuation funds approved before 6th April 1980); and
 - (b) which have at least one member in the United Kingdom and either—
 - (i) are established in the United Kingdom; or
 - (ii) have one or more trustees resident in the United Kingdom.
- (2) Regulation 3 shall not apply to schemes—
- (a) which have less than 12 members;
 - (b) each of whom is a trustee of the scheme; and
 - (c) the rules of which provide that before any investment of the resources of the scheme is made in an employer-related investment, each member shall agree in writing to the making of that investment.

Restriction on self-investment

- 3.—(1) Subject to paragraph (2) and regulation 5, not more than 5 per cent. of the current market value of the resources of a scheme may at any time be invested in employer-related investments.
- (2) The restriction prescribed in paragraph (1) shall not apply to any employer-related investment of resources to which regulation 4 applies.

Investments to which the restriction does not apply

- 4.—(1) This regulation applies to—
- (a) any employer-related investment of resources in an account (including a current, deposit or share account) with a building society as defined in the Building Societies Act 1986⁽⁶⁾ or an institution authorised under Part I of the Banking Act 1987⁽⁷⁾; or
 - (b) any employer-related investment of resources which have been derived from voluntary contributions within the meaning of section 12 of the Social Security Act 1986⁽⁸⁾ (voluntary contributions) and are invested in employer-related investments with the written agreement of the member who paid those contributions.
- (2) This regulation applies to any employer-related investment of resources in the purchase of a policy of insurance or an annuity contract so as to provide benefits in respect of the pensionable service of a member (whether or not that policy or contract also relates to any other member) where—
- (a) the policy or contract is specifically allocated to the provision of those benefits for that member or any other person mentioned or described in—
 - (i) that policy or contract; or
 - (ii) the scheme rules or a nomination thereunder; and

(5) 1988 c. 1.
(6) 1986 c. 53.
(7) 1987 c. 22.
(8) 1986 c. 50.

- (b) that member—
 - (i) has the right under the rules of the scheme to choose the policy or contract in question; and
 - (ii) has agreed in writing that the resources in question may be invested in employer-related investments.

Existing cases

5.—(1) Where on 9th March 1992 the resources of a scheme which are invested in employer-related investments exceed the limit prescribed by regulation 3, those investments may be retained in accordance with paragraph (2).

(2) To the extent that the employer-related investments mentioned in paragraph (1) consist of—

- (a) employer-related loans which are in being on 17th February 1992, they may be retained until 8th March 1994 or, where repayment cannot be required on or before that date, they may be retained until the earliest date on which repayment can be enforced;
- (b) securities which are listed on a recognised stock exchange on 9th March 1992, they may be retained until 8th March 1994;
- (c) employer-related securities that are traded in a second tier market of a recognised stock exchange on 9th March 1992, they may be retained until 8th March 1997;
- (d) employer-related investments to which sub-paragraphs (a) to (c) above do not apply, they may be retained without limit of time.

(3) There shall be no new investment in employer-related investments where the resources of a scheme which have been retained in employer-related investments by virtue of paragraph (2) exceed the restriction prescribed by regulation 3.

(4) In this regulation—

“loans” does not include any sums regarded as loans under section 57A(3) of the Social Security Pensions Act 1975 (restrictions on investment of scheme’s resources in employer-related assets);

“recognised stock exchange” has the same meaning as in section 841 of the Income and Corporation Taxes Act 1988 (recognised stock exchange and recognised investment exchanges);

“retained”, in relation to a loan, means left undischarged;

“resources” does not include any resources to which regulation 4 applies.

Amendment of the Disclosure Regulations

6.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1986(9) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 9(1)(c) (availability of audited accounts, actuarial statements and other information) for the number “15” there shall be inserted the number “17”.

(3) The following paragraphs shall be added after paragraph 15 of Schedule 5 (information to accompany audited accounts and actuarial statement)—

“16. Where the scheme has employer-related investments within the meaning of section 57A of the Act(10) (restrictions on investment of scheme’s resources in employer-related assets)—

(9) S.I.1986/1046, amended by S.I. 1987/1105.

(10) Section 57A was inserted by paragraph 3 of Schedule 4 to the Social Security Act 1990 (c. 27).

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- (a) a copy of a list of those investments;
- (b) a copy of a statement on the proportion of the scheme's resources that are invested in employer-related investments;
- (c) if that proportion exceeds 5 per cent, information on whether and, if so, how it is intended to reduce that percentage.

17. Where the Occupational Pension Schemes (Investment of Scheme's Resources) Regulations 1992(**11**) apply, a copy of a statement on whether the investments of the scheme are invested in accordance with those Regulations.”.

Signed by authority of the Secretary of State for Social Security.

12th February 1992

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations restrict the proportion of the resources of an occupational pension scheme that may be invested in employer-related investments.

Regulation 1 defines “member”, “pensionable service” and “scheme” for the purposes of regulations 2 to 5.

Regulation 2 provides that the restriction on investment in employer-related investments in regulation 3 shall, subject to certain exceptions, apply to those occupational pension schemes which are—

- (a) approved by the Inland Revenue or subject to an application for such approval; or
- (b) exempt from tax by reason of being a superannuation fund approved before 6th April 1980.

Regulation 3 provides that the proportion of a scheme’s resources that may at any time be invested in employer-related investments must not exceed 5 per cent.

By regulation 4 that limit does not apply to employer-related investments—

- (a) in bank or building society accounts;
- (b) of additional voluntary contributions provided that the member has agreed in writing; and
- (c) in policies of insurance issued in respect of persons who have agreed in writing.

Regulation 5 provides that any employer-related investments which exceed the limit prescribed by regulation 3 on 9th March 1992 may, subject to certain time limits, be retained.

Regulation 6 requires trustees of schemes to include in their annual report information on any employer-related investments of the scheme.

The Report of the Occupational Pensions Board on the draft of these Regulations which was referred to them, together with a statement by the Secretary of State showing that these Regulations give effect to the Board’s recommendations, is contained in Command Paper No. 1805, published by Her Majesty’s Stationery Office.