
STATUTORY INSTRUMENTS

1996 No. 3127

**The Occupational Pension Schemes
(Investment) Regulations 1996**

PART III

**EXEMPTIONS FROM AND MODIFICATION OF REQUIREMENT
TO OBTAIN STATEMENT OF INVESTMENT PRINCIPLES**

Exemptions from section 35 of the 1995 Act

10.—(1) In this regulation “wholly insured scheme” means a trust scheme which has no investments other than policies of insurance the effecting of which constitutes the carrying on of long term business falling within Class I or Class III of Schedule 1 to the Insurance Companies Act 1982.

(2) In relation to a trust scheme which has policies of insurance with more than one insurance company, a reference in this regulation to an insurance company shall be to any of the insurance companies with which a policy of insurance is taken out.

(3) Section 35 of the 1995 Act (statement of investment principles) does not apply to a trust scheme which is—

- (a) neither approved for the purposes of Chapter I of Part XIV of the Taxes Act (retirement benefit schemes) nor the subject of an application for such approval which has not been determined;
 - (b) a superannuation fund falling within section 615(6) of the Taxes Act;
 - (c) a scheme which has fewer than twelve members each of whom is a trustee of the scheme and the rules of which provide that before any investment of the resources of the scheme is made each of the members shall agree in writing to the making of that investment;
 - (d) a scheme in respect of which any Minister of the Crown has given a guarantee or made any other arrangements for the purposes of securing that the assets of the scheme are sufficient to meet its liabilities; or
 - (e) a wholly insured scheme in respect of which the requirements set out in paragraph (4) are satisfied.
- (4) The requirements referred to in paragraph (3)(e) are that—
- (a) the policies of insurance constituting the investments of the scheme are taken out with an insurance company such as is mentioned in regulation 6(2)(b)(i), (ii) or (iii); and
 - (b) the terms of the policies of insurance and the rules of the scheme, taken together, are such that the trustees have no discretion as to how any of the monies held by the insurance company for the benefit of the trustees, members or any other beneficiaries under the scheme (except monies held solely in order to provide benefits arising from voluntary contributions) are invested nor as to whether any assets purchased with such monies (except monies held solely in order to provide benefits arising from voluntary contributions) are retained or disposed of by the insurance company.

- (5) For the purposes of paragraph (1), “investments” shall not include—
- (a) cash held on deposit by the trustees or managers pending payment to the insurance company or to members of the scheme; or
 - (b) cash held on deposit by the trustees or managers to meet accrued liabilities or administrative expenses; or
 - (c) any investments arising from voluntary contributions.
- (6) The requirement in paragraph (4)(b) shall be deemed to be satisfied where the trustees may choose in which of a number of investment funds held by the insurance company monies held for the benefit of the trustees, members or other beneficiaries are invested provided that—
- (a) the trustees have no other discretion as to how those monies (except monies held solely in order to provide benefits arising from voluntary contributions) are invested nor as to whether any assets purchased with such monies (except monies held solely in order to provide benefits arising from voluntary contributions) are retained or disposed of by the insurance company; and
 - (b) monies held by the insurance company for the benefit of the trustees, members or any other beneficiaries of more than one scheme are held in each such investment fund (and for the purposes of this paragraph if the employer in relation to one scheme is connected with or an associate of the employer in relation to another scheme those schemes shall be treated as one scheme); and
 - (c) the investment management in relation to each such investment fund is undertaken by the insurance company without direction or influence by the trustees; and
 - (d) no individual asset held in any such fund is attributed to monies invested for the benefit of the trustees, members or any other beneficiaries of any particular scheme.

Multi-employer schemes: modification of section 35 of the 1995 Act

- 11.—**(1) In the application of section 35 of the 1995 Act to a scheme in relation to which there is more than one employer, the requirement imposed by paragraph (b) of subsection (5)—
- (a) where a person has been nominated by all the employers to act as their representative for the purposes of that paragraph, is to consult that person;
 - (b) where no person has been so nominated but the employers have not all notified the trustees that they need not be consulted, is (subject to sub-paragraph (2)) to consult all the employers; and
 - (c) where no person has been so nominated and the employers have all notified the trustees that they need not be consulted, does not apply.
- (2) Where the trustees specify a reasonable period (not being less than twenty eight days) within which they must receive representations from the employers, sub-paragraph (1)(b) does not require them to consider any representations received after the end of that period.