
STATUTORY INSTRUMENTS

2000 No. 1403

The Stakeholder Pension Schemes Regulations 2000

PART II

CONDITIONS APPLYING TO STAKEHOLDER PENSION SCHEMES

Requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment

10.—(1) Subject to paragraph (2), for the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) This regulation does not apply to a scheme established under a trust.

(3) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, in investing such funds or in selecting investment options offered to members of the scheme, have regard to—

- (a) the need for diversification of investments, in so far as appropriate to the circumstances of the scheme; and
- (b) the suitability for the purposes of the scheme of any investment or investment option proposed.

(4) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, before making any investment or selecting any investment option for the purposes of the scheme, obtain and consider proper advice as to whether the investment is satisfactory having regard to the matters mentioned in paragraph (3) and the principles contained in the statement under regulation 9.

(5) For the purposes of paragraph (4), “proper advice” means—

- (a) where giving the advice constitutes carrying on investment business in the United Kingdom within the meaning of the Financial Services Act 1986(1), advice—
 - (i) given by a person authorised under Chapter III of Part I of that Act,
 - (ii) given by a person exempted under Chapter IV of that Part who, in giving the advice, is acting in the course of the business in respect of which he is exempt,
 - (iii) given by a person where, by virtue of paragraph 27 of Schedule 1 to that Act(2), paragraph 15 of that Schedule does not apply to the giving of the advice, or
 - (iv) given by a person who, by virtue of regulation 5 of the Banking Coordination (Second Council Directive) Regulations 1992(3), may give the advice though not authorised as mentioned in head (i) above;

(1) 1986 c. 60. Section 1 defines “investment business” as the business of engaging in one or more of the activities falling within Part II of Schedule 1 to that Act if that business is not excluded by Part III to Schedule 1 of that Act.

(2) Paragraph 27 was amended by article 10 of S.I. 1996/2958 and article 2(4) of S.I. 1996/1322.

(3) S.I. 1992/3218. Regulation 5 was amended by regulation 2(e) and 2(f) of S.I. 1993/3225 and regulation 55 of, and Schedule 9 paragraph (3) to, S.I. 1195/3275.

(b) in any other case, the advice of a person whom the manager or person managing funds held for the purposes of the scheme reasonably believes to be qualified by his ability in and practical experience of financial matters and to have the appropriate knowledge and experience of the management of the investments of pension schemes.

(6) Paragraph (4) does not apply to the extent that the manager or the person managing the scheme's funds is a person who may themselves give proper advice.

(7) To the extent that paragraph (4) is disapplied by virtue of paragraph (6), the manager or person managing the scheme's funds, being persons who may themselves give proper advice, must, before making any investment or selecting any investment option for the purposes of the scheme, consider whether the investment is satisfactory having regard to the matters mentioned in paragraph (3) and the principles contained in the statement under regulation 9, and must record in writing the reasons why they consider that any investment made or investment option chosen is satisfactory having regard to those matters.

(8) No person shall be regarded as having complied with paragraph (4) unless the advice mentioned in that paragraph is given or confirmed in writing.