STATUTORY RULES OF NORTHERN IRELAND

2019 No. 115

PENSIONS

The Occupational Pension Schemes (Investment and Disclosure) (Amendment) Regulations (Northern Ireland) 2019

Made - - - - 6th June 2019

Coming into operation in accordance with regulation 1

The Department for Communities, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to personal and occupational pensions, makes the following Regulations in exercise of the powers conferred by that section, sections 109(1), (6) and (7), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**3**) and Articles 35(4), 36(1), (1A)(a) and (9) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**4**), and now vested in it(**5**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Investment and Disclosure) (Amendment) Regulations (Northern Ireland) 2019 and, except as provided for in paragraphs (2) and (3), shall come into operation on 30th September 2019.

(2) The following regulations shall come into operation on 1st October 2019—

(a) regulation 2;

(b) regulation 3(1), (2) and (3)(a);

(c) regulation 3(3)(b) in so far as it relates to the insertion of paragraph (2B)(a) into regulation 29A of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(**6**), and

(d) regulation 5.

(**1**) *See* Schedule 2 to the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328)

(**2**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7)

(**3**) 1993 c. 49; section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); section 109(6) and (7) was inserted by section 43 of the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)); section 178(1) was amended by Parts 3 and 4 of Schedule 5 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(**4**) S.I. 1995/3213 (N.I. 22); Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); Article 36(1) and (1A) was substituted for Article 36(1) by Article 222(2) of that Order; Article 36(9) was added by Article 222(6) of that Order

(**5**) *See* Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(**6**) S.R. 2014 No. 79; regulation 29A was inserted by regulation 3(6) of S.R. 2018 No. 53

(3) The following regulations shall come into operation on 1st October 2020—

(a) regulation 3(3)(b) for all remaining purposes, and

(b) regulation 3(4).

(4) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Occupational Pension Schemes (Investment) Regulations

2.—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(**8**) are amended in accordance with paragraph (2).

(2) In regulation 2(**9**) (statement of investment principles)—

(a) after paragraph (3)(c) add—

"(d) their policy in relation to the trustees' arrangement with any asset manager, setting out the following matters or explaining the reasons why any of the following matters are not set out—

(i) how the arrangement with the asset manager incentivises the asset manager to align its investment strategy and decisions with the trustees' policies mentioned in sub-paragraph (b);

(ii) how that arrangement incentivises the asset manager to make decisions based on assessments about medium to long-term financial and non-financial performance of an issuer of debt or equity and to engage with issuers of debt or equity in order to improve their performance in the medium to long-term;

(iii) how the method (and time horizon) of the evaluation of the asset manager's performance and the remuneration for asset management services are in line with the trustees' policies mentioned in sub-paragraph (b);

(iv) how the trustees monitor portfolio turnover costs incurred by the asset manager, and how they define and monitor targeted portfolio turnover or turnover range, and

(v) the duration of the arrangement with the asset manager.";

(b) in paragraph (4)—

(i) after the definition of "non-financial matters" insert—

""portfolio turnover costs" means the costs incurred as a result of the buying, selling, lending or borrowing of investments;";

(ii) in the definition of "relevant matters" for "governance, and" substitute "governance;";

(iii) in the definition of "relevant persons" for "equity." substitute "equity;";

(iv) after the definition of "relevant persons" add—

""stakeholder" means a person or a group of persons who has an interest in the issuer of debt or equity;

"targeted portfolio turnover" means the frequency within which the assets of the scheme are expected to be bought or sold;

(**7**) 1954 c. 33 (N.I.)
(**8**) S.R. 2005 No. 569
(**9**) Regulation 2 is amended by regulation 4(2) of S.R. 2018 No. 165

"time horizon" means the time period over which the trustees evaluate the performance of the asset manager;

"turnover range" means the minimum and maximum frequency within which the assets of the scheme are expected to be bought or sold.".

Amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations

3.—(1) The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 are amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(1)(**10**) (application of these Regulations) after "25 and, where" insert "the scheme falls within Article 35 of the 1995 Order (investment principles) or".

(3) In regulation 29A(**11**) (publishing charges and transaction costs and other relevant information)—

(a) after paragraph (1) insert—

"(1A) Where Article 35 of the 1995 Order applies to a scheme which does not fall within paragraph (1), the information specified in paragraph (2B) must be made publicly available free of charge on a website in accordance with this regulation.";

(b) after paragraph (2A)(**12**) insert—

"(2B) The specified information is—

(a) the latest statement of investment principles governing decisions about investments prepared for the scheme under Article 35 of the 1995 Order, and

(b) the information which must be included in the most recent document prepared under regulation 12(**13**) in accordance with paragraph 30(ca) of Schedule 3.".

(4) In paragraph 30 of Schedule 3 (information to be given on request) after sub-paragraph (c) insert—

"(ca) a statement which must—

(i) set out how, and the extent to which, in the opinion of the trustees, the policy required under regulation 2(3)(c)(**14**) of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 has been followed during the year, and

(ii) describe the voting behaviour by, or on behalf of, trustees (including the most significant votes cast by trustees or on their behalf) during the year and state any use of the services of a proxy voter during that year;".

Amendment of the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations

4.—(1) The Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018(**15**) are amended in accordance with paragraphs (2) and (3).

(**10**) Regulation 4(1) was amended by regulation 3(2) of S.R. 2018 No. 53
(**11**) The heading to, and paragraph (1) of, regulation 29A are amended by regulation 5(3) and (4)(a) of S.R. 2018 No. 165
(**12**) Paragraph (2A) is inserted by regulation 5(4)(b) of S.R. 2018 No. 165
(**13**) Regulation 12 is amended by regulation 5(2) of S.R. 2018 No. 165
(**14**) Regulation 2(3)(c) is substituted by regulation 4(2)(a)(iv) of S.R. 2018 No. 165
(**15**) S.R. 2018 No. 165

(2) In regulation 4 (amendment of the Occupational Pension Schemes (Investment) Regulations) —

(a) in paragraph (2)—

(i) in sub-paragraph (a)—

(aa) in head (iii) in the added sub-paragraph (b)(vii) for "investments, and" substitute "investments;";

(bb) in head (iv) in the substituted sub-paragraph (c)(ii) for "matters)." substitute "matters), and";

(ii) in sub-paragraph (b) in the added paragraph (4)—

(aa) in the definition of "relevant matters" after "strategy," insert "capital structure, management of actual or potential conflicts of interest,";

(bb) in the definition of "relevant persons" before "or another" insert ", another stakeholder";

(b) for paragraph (3) substitute—

"(3) In regulation 2A(1)(b)(**16**) (additional requirements in relation to default arrangement) after "regulation 2(3)(b)" insert "and, if that scheme has 100 or more members, regulation 2(3)(c) and (d)(**17**)".".

(3) In regulation 5 (amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations)—

(a) in paragraph (2)(b) for the added paragraph (5) substitute—

"(5) Where Article 35 of the 1995 Order (investment principles) applies to a scheme the following information must be made publicly available free of charge in accordance with regulation 29A—

(a) the information listed in paragraph 30(ca)(**18**) of Schedule 3 but only if the scheme is not a relevant scheme within the meaning of regulation 1(2) of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**19**) (interpretation), or

(b) the information listed in paragraph 30(f)(**20**) of that Schedule but only if the scheme is a relevant scheme within the meaning of that regulation.";

(b) for paragraph (4)(c) substitute—

"(c) in paragraph (4) after "paragraph (2)" insert ", (2A) or (2B)".";

(c) in paragraph (5)—

(i) in sub-paragraph (a) in the substituted sub-paragraph (d)—

(aa) in head (ii) for "(vii), and" substitute "(vii);";

(bb) after head (iii) add—

"(iv) paragraph (3)(d), and";

(ii) in sub-paragraph (c) in the added sub-paragraph (f)—

(aa) in head (iii) for "change, and" substitute "change;";

(bb) in head (iv) for "review." substitute "review, and";

(**16**) Regulation 2A was inserted by regulation 20(3) of S.R. 2015 No. 309
(**17**) Paragraph (3)(d) is added by regulation 2(2)(a) of these Regulations
(**18**) Paragraph 30(ca) is inserted by regulation 3(4) of these Regulations
(**19**) S.R. 1997 No. 94; the definition of "relevant scheme" was inserted by regulation 14 of S.R. 2015 No. 309
(**20**) Paragraph 30(f) is added by regulation 5(5)(c) of S.R. 2018 No. 165