STATUTORY RULES OF NORTHERN IRELAND

2005 No. 421

PENSIONS

The Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations (Northern Ireland) 2005

Made - - - - 9th September 2005

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by sections 107A(4)(b) to (7), 109(1)(d) and 177(2) and (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and Articles 41(1) and (6), 47(5) and (6), 49(2), (4) and (9)(b), 85(1), 86(1) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation as follows—

(a) in the case of an occupational pension scheme established before 22nd September 2005, this regulation and regulations 2(1) to (4) and 3, on the first day of the first scheme year that starts on or after 22nd September 2005;

(b) in the case of an occupational pension scheme established on or after 22nd September 2005, this regulation and regulations 2(1) to (4) and 3, on 22nd September 2005, and

(c) for all other purposes, on 6th April 2006.

(2) In these Regulations—

"the Scheme Administration Regulations" means the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**4**);

"scheme year" means—

(**1**) 1993 c. 49

(**2**) S.I. 1995/3213 (N.I. 22); Article 49(9) was inserted by Article 11(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by Article 246(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and Article 86(1) was substituted by Article 246(2) of that Order

(**3**) *See* Article 8(b) of S.R. 1999 No. 481

(**4**) S.R. 1997 No. 94; relevant amending regulations are S.R. 1997 No. 160, S.R. 1999 No. 486 and S.R. 2000 No. 69

(a) either—

(i) a year specified for the purposes of the scheme rules in any document which contains those scheme rules, or

(ii) if no such year is specified, a period of 12 months commencing on 1st April or on such date as the trustees or managers select, or

(b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—

(i) the commencement or termination of the scheme, or

(ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations

2.—(1) The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997(**6**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of "ear-marked scheme" there shall be inserted the following definition—

""group of companies" has the meaning given by section 71 of the Finance Act 2005(**7**);".

(3) In regulation 2 (requirement of trustees or managers to obtain documents)—

(a) in paragraph (1) for "Subject to paragraph (2)" there shall be substituted "Subject to paragraphs (2), (2A) and (2B)";

(b) for paragraph (2) there shall be substituted the following paragraph—

"(2) In the case of an ear-marked scheme, the requirements contained in paragraph (1)(a) shall not apply and the trustees or managers of such a scheme shall—

(a) upon receiving a written request from a person specified in Article 41(4) of the Order—

(i) make available a copy of the most recent accounts published in relation to the insurance companies (whether as part of a group of companies or otherwise) with which they hold ear-marked policies of insurance or annuity contracts in relation to that person; and

(ii) make that information available to the person who requested it within a reasonable time of receiving the request; and

(b) provide each scheme member within 12 months of the end of each scheme year with a statement detailing the amount of contributions credited to him during that scheme year.";

(**5**) 1954 c. 33 (N.I.)
(**6**) S.R. 1997 No. 40; relevant amending regulations are S.R. 1997 No. 160 and S.R. 2000 Nos. 107 and 382
(**7**) 2005 c. 7

(c) after paragraph (2A)(**8**) there shall be inserted the following paragraph—

"(2B) In relation to a scheme to which Article 47(1)(a) of the Order does not apply, the requirement to obtain accounts in accordance with paragraph (1)(a) or an auditor's statement in accordance with paragraph (1)(b) shall apply to such a scheme—

(a) which falls within regulation 3(1)(c) or (i) of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997; and

(b) which has 100 or more members.", and

(d) paragraph (4)(**9**) shall be omitted.

(4) In regulation 4(1)(**10**) (form and content of the auditor's statement) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

"(a) a statement as to whether or not in his opinion contributions have in all material respects been paid at least in accordance with the schedule of contributions or payment schedule; and".

(5) In paragraph 2(3)(a)(**11**) of the Schedule (contents of accounts audited by the auditor of the scheme) the words "to which section 107 of the Pension Schemes Act applies" shall be omitted.

Amendment of the Scheme Administration Regulations

3.—(1) The Scheme Administration Regulations shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(2) (interpretation) for the definition of "wholly insured scheme" there shall be substituted the following definition—

""wholly insured scheme" means a trust scheme, other than a stakeholder pension scheme within the meaning of Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999, which has no investments other than specified insurance policies with specified insurers and for these purposes "investments" shall not include—

(a) cash held on deposit by the trustees or managers pending payment to the insurer or to members of the scheme;

(b) cash held on deposit by the trustees or managers to meet accrued liabilities or administrative expenses; or

(c) investments arising from voluntary contributions; and

in relation to a trust scheme which has policies of insurance with more than one insurer, a reference in this regulation to an insurer shall be to any of the insurers with which a policy of insurance is taken out.".

(3) In regulation 3 (professional advisers' requirements: exceptions)—

(a) in paragraph (1)—

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

"(a) a scheme which is—

(i) provided for, by or under a statutory provision; and

(ii) guaranteed by a Minister of the Crown, government department or other public authority;";

(**8**) Paragraph (2A) was inserted by regulation 8 of S.R. 2000 No. 382
(**9**) Paragraph (4) was substituted by regulation 2 of S.R. 2000 No. 107
(**10**) Regulation 4 was amended by paragraph 14(3) of the Schedule to S.R. 1997 No. 160
(**11**) Sub-paragraph (3) was added by paragraph 14(4) of the Schedule to S.R. 1997 No. 160

(ii) in sub-paragraph (h)(**12**) after head (ii) there shall be added—

"and

(iii) there are fewer than 12 members;";

(iii) in sub-paragraph (hh) at the end there shall be added "with fewer than 12 members", and

(iv) sub-paragraphs (b), (d), (g) and (j) shall be omitted;

(b) in paragraph (2) for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraph—

"(b) schemes mentioned in—

(i) paragraph (1)(a), (e) and (f); or

(ii) paragraph (1)(c) or (i) where these schemes have fewer than 100 members.", and

(c) in paragraphs (3)(c) and (4) for "paragraph (1)(a) to (g), (i) and (j)" there shall be substituted "paragraph (1)(a) to (f) and (i)".

(4) In regulations 5(11) (manner and terms of appointment and removal of professional advisers) and 6(4) (duty to disclose information) for "regulation 3(1)(b) to (g) and (i)" there shall be substituted "regulation 3(1)(c) to (f) and (i)".

(5) In regulation 12 (requirement for trustees to keep books and records) after paragraph (2) there shall be added the following paragraph—

"(3) This regulation shall not apply in the case of a trust scheme which falls within the description referred to in—

(a) regulation 3(1)(f);

(b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members; or

(c) to a scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations (Northern Ireland) 2000(**13**).".

(6) In regulation 13 (records of trustees' meetings) for paragraph (2) there shall be substituted the following paragraph—

"(2) This regulation shall not apply in the case of a trust scheme which falls within the description referred to in—

(a) regulation 3(1)(f); or

(b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members.".

(7) In regulation 16A(2)(b)(**14**) (time limits for giving notice to the Authority and to the member and circumstances in which such notice need not be given) head (ii) and the word "or" preceding it shall be omitted.

(8) For regulation 17(**15**) (requirement to secure a payment schedule: exception) there shall be substituted the following regulation—

(**12**) Sub-paragraph (h) was amended and sub-paragraph (hh) was inserted by paragraph 16(3) of the Schedule to S.R. 1997 No. 160
(**13**) S.R. 2000 No. 382, to which there are amendments not relevant to these regulations
(**14**) Regulation 16A was inserted by regulation 2(3) of S.R. 2000 No. 69
(**15**) Regulation 17 was amended by paragraph 16(5) of the Schedule to S.R. 1997 No. 160