



2000 CHAPTER 4

PART II

PENSIONS

CHAPTER II

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

*Winding-up of schemes*

**Information to be given to the Authority**

**43.**—(1) In Article 22(1)(a) and (3) of the Pensions Order (circumstances in which following provisions apply), for “26” there shall be substituted “26A”.

(2) After Article 26 of that Order there shall be inserted—

**“Information to be given to the Authority in relation to a scheme to which Article 22 applies**

**26A.**—(1) If at any time while Article 22 applies in relation to a scheme—

- (a) the trustees of the scheme do not include at least one person who the practitioner or official receiver has informed them is a person about whose independent status he is satisfied, and
- (b) the trustees have no other reasonable grounds for believing that their number includes at least one person about whose independent status the practitioner or official receiver is satisfied,

it shall be the duty of the trustees, as soon as reasonably practicable after it first appears to any one or more of them as mentioned in sub-paragraphs (a)

and (b), to give notice to the Authority that the scheme appears not to have an independent trustee.

(2) If a trust scheme is without trustees at any time while Article 22 applies to it, it shall be the duty of every person involved in the administration of the scheme, as soon as reasonably practicable after it first appears to him that the scheme is without trustees, to give notice to the Authority that the scheme has no trustees.

(3) No person shall be required to give a notice under paragraph (1) or (2) at any time when it appears to him, on reasonable grounds—

(a) that it is the intention of the practitioner or official receiver, for the purpose of complying with his duty under Article 23(1)(b), to make or secure the appointment of any person as a trustee of the scheme, and

(b) that the appointment will be made within the period specified by or under Article 23(2) for the performance of that duty.

(4) No person shall be required to give a notice under paragraph (2) at any time when it appears to him, on reasonable grounds, that the Authority are already aware that the scheme has no trustees.

(5) Where the practitioner or official receiver at any time informs the trustees of a trust scheme that he is not, or is no longer, satisfied about a person's independent status, no account shall be taken for the purposes of paragraph (1)(a) of any information that he was so satisfied which was given by the practitioner or official receiver to the trustees before that time.

(6) References in this Article to the practitioner or official receiver being satisfied about a person's independent status are references to his being satisfied for the purposes of Article 23 that that person is an independent person.

(7) If paragraph (1) is not complied with, Article 10 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance.

(8) Article 10 applies to any person who fails to comply with a duty imposed on him by paragraph (2).

### **Information to be given in cases where Article 22 disapplied**

**26B.**—(1) Where, at any time—

(a) Article 22 would apply in relation to a trust scheme but for regulations under Article 115,

(b) the employer in relation to the scheme is the sole trustee of the scheme,

(c) there are persons involved in the administration of the scheme, and

- (d) none of those persons has received an employer's assurance relating to the scheme,

it shall be the duty of every person who is involved in the administration of the scheme, as soon as reasonably practicable after it first appears to him as mentioned in sub-paragraphs (a) and (b), to give notice to the Authority that the case is one falling within sub-paragraphs (a) to (d).

(2) For the purposes of this Article a person has received an employer's assurance relating to a scheme if during the period while Article 22 would have applied in relation to the scheme but for regulations under Article 115—

- (a) he has been informed by the person who is the employer in relation to the scheme that there is no reason why the employer should not continue to act as a trustee of the scheme,
- (b) he has not subsequently been informed by the person who is the employer in relation to the scheme that that has ceased to be the case, and
- (c) the trustees of the scheme have not changed since he was informed as mentioned in sub-paragraph (a).

(3) No person shall be required to give a notice under paragraph (1)—

- (a) at any time when it appears to him, on reasonable grounds, that the Authority are already aware that the case is one falling within sub-paragraphs (a) to (d) of that paragraph,
- (b) if a period is prescribed for the purposes of this sub-paragraph, at any time in the prescribed period after the event by virtue of which the scheme became a scheme in relation to which Article 22 would apply but for regulations under Article 115, or
- (c) at any other time that is prescribed for the purposes of this paragraph.

(4) Article 10 applies to any person who fails to comply with any duty imposed on him by paragraph (1).

### **Construction of Articles 26A and 26B**

**26C.—**(1) In Articles 26A and 26B, references in relation to a scheme, to a person involved in the administration of the scheme are (subject to paragraph (2)) references to any person who is so involved otherwise than as—

- (a) the employer in relation to that scheme,
- (b) a trustee of the scheme,
- (c) the auditor of the scheme or its actuary,
- (d) a legal adviser of the trustees of the scheme,
- (e) a fund manager for the scheme,

- (f) a person acting on behalf of a person who is involved in the administration of the scheme,
- (g) a person providing services to a person so involved,
- (h) a person acting in his capacity as an employee of a person so involved,
- (i) a person who would fall within any of sub-paragraphs (f) to (h) if persons acting in relation to the scheme in any capacity mentioned in the preceding sub-paragraphs were treated as involved in the administration of a scheme.

(2) In this Article references, in relation to a scheme, to a person involved in the administration of the scheme do not include references to persons of a particular description if regulations provide for persons of that description to be excluded from those references.

(3) If regulations so provide in relation to any provision of Article 26A or 26B, so much of that provision as requires any notice to be given as soon as reasonably practicable after a particular time shall have effect as a requirement to give that notice within such period after that time as may be prescribed.”.

(3) In paragraph (2) of Article 115 of that Order (powers to provide for Articles 22 to 26 not to apply in the case of certain schemes), for “Articles 22 to 26” there shall be substituted “some or all of the provisions of Articles 22 to 26C”.

(4) After that paragraph there shall be added—

“(3) Regulations may modify Articles 26A and 26B for the purpose of requiring prescribed persons, in addition to or instead of the persons who (apart from the regulations) would be required to provide information to the Authority under those Articles, to be subject to the duties imposed by those Articles.”.

(5) In section 173(b) of the Pension Schemes Act (managers of schemes), at the end there shall be added “or Articles 22 to 26C of the Pensions (Northern Ireland) Order 1995”.