
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Functions of trustees

Choosing investments

36.—^[F1](1) The trustees of a trust scheme must exercise their powers of investment in accordance with regulations and in accordance with paragraphs (3) and (4), and any fund manager to whom any discretion has been delegated under Article 34 must exercise the discretion in accordance with regulations.

(1A) Regulations under paragraph (1) may, in particular—

- (a) specify criteria to be applied in choosing investments, and
- (b) require diversification of investments.]

Para. (2) rep. by 2005 NI 1

(3) Before investing in any manner (other than in a manner mentioned in Part I of Schedule 1 to the Trustee Investments Act 1961^{F2}) the trustees must obtain and consider proper advice on the question whether the investment is satisfactory having regard to^[F1] the requirements of regulations under paragraph (1), so far as relating to the suitability of investments, and to] the principles contained in the statement under Article 35.

(4) Trustees relating any investment must—

- (a) determine at what intervals the circumstances, and in particular the nature of the investment, make it desirable to obtain such advice as is mentioned in paragraph (3), and
- (b) obtain and consider such advice accordingly.

(5) The trustees, or the fund manager to whom any discretion has been delegated under Article 34, must exercise their powers of investment with a view to giving effect to the principles contained in the statement under Article 35, so far as reasonably practicable.

(6) For the purposes of this Article, “proper advice” means—

- ^[F3](a) if the giving of the advice constitutes the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000), advice given by a person who may give it without contravening the prohibition imposed by section 19 of that Act (prohibition on carrying on regulated activities unless authorised or exempt);]
- (b) in any other case, the advice of a person who is reasonably believed by the trustees 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 trust schemes.

Changes to legislation: *The Pensions (Northern Ireland) Order 1995, Section 36 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) Trustees shall not be treated as having complied with paragraph (3) or (4) unless the advice was given or has subsequently been confirmed in writing.

[^{F1}(8) If the trustees of a trust scheme—

- (a) fail to comply with regulations under paragraph (1), or
- (b) do not obtain and consider advice in accordance with this Article,

Article 10 applies to any trustee who has failed to take all reasonable steps to secure compliance.]

[^{F1}(9) Regulations may exclude the application of any of the preceding provisions of this Article to any scheme which is of a prescribed description.]

<p>F1 2005 NI 1 F2 1961 c. 62 F3 SI 2001/3649</p>
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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72](#)
- power to am. (prosp.) by [1998 c. 47 s.87](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 18(15)(16) repealed by [2012 c. 3 \(N.I.\) Sch. 2 para. 4\(b\)](#)
- Sch. 2 Pt. 3 para. 18(8) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- Sch. 2 Pt. 3 para. 18(18) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- art. 37(1A)(a) word inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(a\)](#)
- art. 37(1A)(b) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(b\)](#)
- art. 51(5A)-(5C) inserted by [2016 c. 1 \(N.I.\) s. 43\(1\)](#)
- art. 51(7A) inserted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(b\)](#)
- art. 51(9)(10) inserted by [2016 c. 1 \(N.I.\) s. 42\(3\)](#) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by [2016 c. 1 \(N.I.\) s. 45\(3\)](#)
- art. 67A(9)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) s. 45\(6\)\(b\)](#)
- art. 73(2)(2A) substituted for art. 73(2) by [2016 c. 1 \(N.I.\) Sch. 2 para. 11](#)
- art. 75(1)-(1B) substituted for art. 75(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 12](#)
- art. 167(3)(aa) inserted by [2016 c. 1 \(N.I.\) s. 43\(2\)](#)