

**2005 No. 567**

**PENSIONS**

**The Occupational Pension Schemes (Internal Controls)  
Regulations (Northern Ireland) 2005**

*Made* - - - - - *16th December 2005*

*Coming into operation* - *30th December 2005*

The Department for Social Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b), in relation to personal and occupational pensions, in exercise of the powers conferred on it by that section and Article 85(2)(k) of the Pensions (Northern Ireland) Order 2005(c), 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 (Internal Controls) Regulations (Northern Ireland) 2005 and shall come into operation on 30th December 2005.

(2) In these Regulations “the Order” means the Pensions (Northern Ireland) Order 2005.

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

**Amendment of the Order**

2. After Article 226 of the Order (requirement for knowledge and understanding: supplementary) there shall be inserted the following Article—

**“Requirement for internal controls**

**226A.**—(1) The trustees or managers of an occupational pension scheme must establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed—

- (a) in accordance with the scheme rules, and
- (b) in accordance with the requirements of the law.

(2) Nothing in this Article affects any other obligation of the trustees or managers of an occupational pension scheme to establish or operate internal controls, whether imposed by or by virtue of any statutory provision, the scheme rules or otherwise.

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(a) See Schedule 2 to the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328)  
(b) 1972 c. 68  
(c) S.I. 2005/255 (N.I. 1)  
(d) 1954 c. 33 (N.I.)

(3) This Article does not apply in relation to—

- (a) a scheme which is—
  - (i) established by, or under, a statutory provision, and
  - (ii) guaranteed by a public authority,
- (b) a pay-as-you-go scheme,
- (c) a scheme which is established under section 48 of the Northern Ireland Act 1998<sup>(a)</sup> (pensions of members), or which was established under Part II of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965<sup>(b)</sup> or Article 3 of the Assembly Pensions (Northern Ireland) Order 1976<sup>(c)</sup>.

(4) Paragraph (3) does not disapply this Article in relation to any scheme the trustees or managers of which are—

- (a) authorised under Article 264 (general authorisation to accept contributions from European employers), or
- (b) approved under Article 265 in relation to a European employer.

(5) In this Article—

“internal controls” means—

- (a) arrangements and procedures to be followed in the administration and management of the scheme,
- (b) systems and arrangements for monitoring the administration and management of the scheme, and
- (c) arrangements and procedures to be followed for the safe custody and security of the assets of the scheme;

“local authority” has the meaning given by Article 2(2) of the Superannuation (Northern Ireland) Order 1972<sup>(d)</sup>;

“pay-as-you-go scheme” means an occupational pension scheme under which there is no requirement for assets to be set aside in advance for the purpose of providing benefits under the scheme (disregarding any requirements relating to additional voluntary contributions);

“public authority” means—

- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975<sup>(e)</sup>),
- (b) a government department (including any body or authority exercising statutory functions on behalf of the Crown), or
- (c) a local authority.”.

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(a) 1998 c. 47  
(b) 1965 c. 18 (N.I.)  
(c) S.I. 1976/1779  
(d) S.I. 1972/1073 (N.I. 10)  
(e) 1975 c. 26

**Codes of Practice**

3. The discharge of the duty imposed by Article 226A(1) of the Order is a prescribed matter for the purposes of Article 85(2)(k) of the Order (codes of practice).

Sealed with the Official Seal of the Department for Social Development on 16th December 2005.



*John O'Neill*

A senior officer of the Department for Social Development

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Pensions (Northern Ireland) Order 2005 (“the Order”). Regulation 2 inserts Article 226A which implements the requirement in Article 14(1) of the European Union Directive on the activities and supervision of institutions for occupational retirement provision (Directive 2003/41/EC) (“the Directive”) that the trustees or managers of an occupational pension scheme must have adequate internal control mechanisms.

Article 226A(1) imposes a duty on the trustees or managers to establish and operate internal controls. Paragraph (2) of that Article provides that the duty established by paragraph (1) does not affect any other obligation on the trustees or managers, whether statutory or otherwise, to establish and operate internal controls. Paragraph (3) lists the occupational pension schemes to which the requirements of that Article do not apply. But paragraph (4) provides that, despite paragraph (3), those requirements do apply to any scheme that is undertaking cross-border activities within the European Union. Paragraph (5) provides for interpretation.

Regulation 3 provides that the Pensions Regulator must issue a code of practice relating to the duty imposed by Article 226A(1).

The Pensions (2005 Order) (Commencement No. 6) Order (Northern Ireland) 2005 (S.R. 2005 No. 411 (C. 32)) provides for the coming into operation of Article 85(2)(k), one of the enabling provisions under which these Regulations are made, on 14th November 2005.

As these Regulations, in so far as they are made under the Order, are made before the end of the period of six months beginning with the coming into operation of the provisions of the Order by virtue of which they are made, the requirement to consult under Article 289(1) of the Order does not apply by virtue of paragraph (2)(c) of that Article.

The transposition of Article 14(1) of the Directive is detailed in the Transposition Note, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Note are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, copies of which have been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Social Development, Social Security Policy and Legislation Division at the above address.

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