
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 569

**The Occupational Pension Schemes (Investment)
Regulations (Northern Ireland) 2005**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 and shall come into operation on 30th December 2005.

(2) In these Regulations—

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995;

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005⁽¹⁾;

“the FSM Act” means the Financial Services and Markets Act 2000⁽²⁾;

“the Taxes Act 1988” means the Income and Corporation Taxes Act 1988⁽³⁾;

“collective investment scheme” has the same meaning as in Part XVII of the FSM Act, but includes arrangements of the type described in paragraphs 4 and 9 of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001⁽⁴⁾ (arrangements not amounting to a collective investment scheme);

“employer-related loan” has for the purposes of regulations 12, 14 and 15 the meaning given in regulation 12(4);

“insurance policy” means a contract of a kind referred to in Article 2 of the Life Directive, but excluding a contract of a kind referred to in Article 2(2)(c) and (d) of that Directive;

“the Life Directive” means Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance⁽⁵⁾;

“qualifying insurance policy” means an insurance policy issued by an insurer which is—

- (a) a person who has permission under Part IV of the FSM Act to effect or carry out contracts of long-term insurance, or
- (b) an undertaking established in an EEA State (as defined in paragraph 8 of Schedule 3 to the FSM Act) other than the United Kingdom, which is authorised by the competent authorities of that State to carry on the business of direct insurance for the class of assurance as listed in Annex I to the Life Directive in which the insurance policy falls;

“recognised stock exchange” has the same meaning as in section 841 of the Taxes Act 1988;

“scheme” (except in the expression “collective investment scheme”) means an occupational pension scheme;

“scheme undertaking cross-border activities” means a scheme in relation to which the trustees or managers are—

(1) S.I. 2005/255 (N.I. 1)

(2) 2000 c. 8

(3) 1988 c. 1

(4) S.I. 2001/1062; paragraph 9(1)(a) was substituted by article 2(2) of S.I. 2001/3650

(5) O.J. No. L345, 19.12.2002, p.1

- (a) authorised under Article 264 of the 2005 Order (general authorisation to accept contributions from European employers), or
- (b) approved under Article 265 of the 2005 Order in relation to a European employer;

“small scheme” means a scheme with fewer than 12 members, where—

- (a) all the members are trustees of the scheme and either—
 - (i) the provisions of the scheme provide that all decisions which fall to be made by the trustees are made by unanimous agreement by the trustees who are members of the scheme, or
 - (ii) the scheme has a trustee who is independent in relation to the scheme for the purposes of Article 23(6) (power to appoint independent trustees), and is registered in the register maintained by the Authority in accordance with regulations made under paragraph (4) of that Article, or
- (b) all the members are directors of a company which is the sole trustee of the scheme, and either—
 - (i) the provisions of the scheme provide that any decisions made by the company in its capacity as trustee are made by the unanimous agreement of all the directors who are members of the scheme, or
 - (ii) one of the directors of the company is independent in relation to the scheme for the purposes of Article 23, and is registered in the register maintained by the Authority in accordance with regulations made under paragraph (4) of that Article;

“specified qualifying insurance policy” means a qualifying insurance policy which is a contract falling within paragraph III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(7).

(3) Regulations 12(4)(b), 13(3) and 15(1) must be read with—

- (a) section 22 of the FSM Act (the classes of activity and categories of investment);
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act (regulated activities).

(4) Subject to paragraph (5) and for the purposes of Articles 35 (investment principles) and 40 (restriction on employer-related investments), “employer”, in relation to a scheme which has no active members, includes every person who was the employer of persons in the description of employment to which the scheme relates immediately before the time at which the scheme ceased to have any active members in relation to it.

(5) In these Regulations, “employer”, in relation to a multi-employer scheme, or a section of a multi-employer scheme, includes—

- (a) in the case of a scheme which has no active members, every person who was the employer of persons in the description of employment to which the scheme, or section, relates immediately before the time at which the scheme, or section, ceased to have any active members in relation to it unless after that time—
 - (i) a debt under Article 75(8) (deficiencies in the assets) becomes due from that person to the scheme, or section, and
 - (ii) either—
 - (aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section, or

(6) Article 23 was substituted by Article 32(3) of the Pensions (Northern Ireland) Order 2005

(7) [S.I. 2001/544](#)

(8) Article 75 was amended by Article 248 of the Pensions (Northern Ireland) Order 2005

- (bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers, and
 - (b) in any other case, any person who has ceased to be the employer of persons in the description of employment to which the scheme, or section, relates unless—
 - (i) at the time when he so ceased, the scheme, or section, was not being wound up and continued to have active members in relation to it, and
 - (ii) a debt under Article 75 became due at that time from that person to the scheme, or section, and either—
 - (aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section, or
 - (bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers.
- (6) For the purposes of these Regulations, and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954⁽⁹⁾, 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.
- (7) In these Regulations any reference to a numbered Article is a reference to the Article of the 1995 Order bearing that number.

⁽⁹⁾ 1954 c. 33 (N.I.)