

1988 No. 41

FINANCIAL SERVICES

The Financial Services Act 1986 (Occupational Pension Schemes) Order 1988

<i>Made</i> - - - -	<i>15th January 1988</i>
<i>Laid before Parliament</i>	<i>21st January 1988</i>
<i>Coming into force</i>	<i>20th February 1988</i>

The Secretary of State, in exercise of his powers under section 191(3) of the Financial Services Act 1986(a) and of all other powers enabling him in that behalf, hereby makes the following Order:-

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services Act 1986 (Occupational Pension Schemes) Order 1988 and shall come into force on 20th February 1988.

(2) In this Order-

“the Act” means the Financial Services Act 1986;

“relevant member” means an employee or former employee on whose behalf contributions to a relevant scheme are being, or have been, made and whose rights to a pension have not been secured by the acquisition of an annuity; and

“relevant scheme” means a scheme of a kind described in article 3 of this Order.

Certain persons not to be treated as carrying on investment business by virtue of section 191 of the Act

2.—(1) No person of a kind described in paragraph (2) of this article shall be treated as carrying on investment business by virtue of section 191 of the Act where the assets he manages are held for the purposes of a relevant scheme.

(2) This paragraph applies to-

(a) any trustee of a relevant scheme who is a beneficiary or potential beneficiary under the scheme; and

(b) any other trustee of a relevant scheme who takes no day to day decisions relating to the management of assets of the scheme which are investments.

3.—(1) For the purposes of this Order a scheme is a relevant scheme if it is an occupational pension scheme of a kind described in paragraph (2) or (3) below.

(2) A scheme falls within this paragraph if-

(a) it is constituted under an irrevocable trust;

(b) it has no more than twelve relevant members;

(c) all relevant members of the scheme are trustees of it; and

- (d) all decisions, or all day to day decisions, relating to the management of assets of the scheme which are investments are required to be taken by all relevant members or by a majority of such members or by a person of the kind described in section 191(2)(a), (b) or (c) of the Act.
- (3) A scheme falls within this paragraph if—
 - (a) it has no more than 50 members;
 - (b) the contributions in respect of each member of the scheme are used in the acquisition of a contract of insurance on the life of that member or of a contract to pay an annuity on that life; and
 - (c) each member is given the opportunity to select the contract of insurance which his contributions will be used to acquire.

15th January 1988

Francis Maude
Parliamentary Under-Secretary of State,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order directs that no trustee of an occupational pension scheme of a kind described in article 3 of the Order is to be treated as carrying on investment business by virtue of section 191 of the Financial Services Act if either he is a beneficiary or potential beneficiary under the scheme in question or he takes no day to day decisions relating to the management of assets of the scheme which are investments.

45p net

ISBN 0 11 086041 1