
STATUTORY INSTRUMENTS

1996 No. 1715

**The Occupational Pension Schemes
(Scheme Administration) Regulations 1996**

PART III

TRUSTEES

CHAPTER I

TRUSTEES: GENERAL

Ineligibility to act as actuary or auditor

7. For the purposes of section 27(3) of the 1995 Act (ineligibility of trustees and connected and associated persons to act as an auditor or actuary of the scheme: exceptions for persons of a prescribed class or description) the prescribed class or description is—

- (a) any person who is a director, partner or employee of a firm which provides, amongst other services, actuarial services and who would be ineligible under section 27(1) of the 1995 Act to be the actuary merely because another director, partner or employee of that firm is a trustee of the scheme;
- (b) any person—
 - (i) who is a director, partner or employee of a firm which provides, amongst other services, actuarial services; and
 - (ii) who is not a director of the company which is a trustee of the scheme,

and who would be ineligible under section 27(1) of the 1995 Act to be the actuary merely because he is an associate of the company which is the trustee of the scheme by virtue of section 435(4), (6) and (7) of the Insolvency Act 1986^{M1};

- (c) any person who would be ineligible under section 27(1) of the 1995 Act to act as the auditor or the actuary merely because he falls within the description of associate as specified in [^{F1}section 435(2) of the Insolvency Act 1986; and[”]];

[^{F2}(d) in the case where a person is an associate of any person with whom he is in partnership, the husband or wife or a relative of any individual with whom he is in partnership.]

Textual Amendments

- F1** Words in reg. 7(c) substituted (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), **5(b)(i)**
- F2** Reg. 7(d) inserted (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), **5(b)(ii)**

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Modifications etc. (not altering text)

C1 Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

Marginal Citations

M1 1986 c.45.

Meaning of trustee of a trust scheme

8. For the purposes of section 27(5) of the 1995 Act (references to sections 27 and 28 of the 1995 Act to a trustee of a trust scheme do not include a trustee, or a trustee of a scheme falling within a prescribed class or description) the prescribed class or description is [^{F3}a trustee who is a trustee in relation to a scheme to which regulation 3(1)(h)(i)(bb) or (ii)(bb) applies (exemptions from the professional advisers requirements)].

Textual Amendments

F3 Words in [reg. 8](#) substituted (6.4.2006) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(4)**

Modifications etc. (not altering text)

C1 Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

CHAPTER II

FUNCTIONS OF TRUSTEES

Exemption from the requirement to give notice of an occasion when a specified number of trustees must be present for a decision

9. For the purposes of section 32(2)(b) of the 1995 Act (notice of any occasion at which decisions may be taken by a majority to be given to each trustee unless the occasion falls within a prescribed class or description) the prescribed class or description is an occasion on which it is necessary as a matter of urgency to make a decision.

Modifications etc. (not altering text)

C1 Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

Manner of, and time for giving, notice when a specified number of trustees must be present for a decision

10. For the purposes of section 32(3) of the 1995 Act (notice to be given in a prescribed manner and no later than the beginning of a prescribed period) the prescribed manner and period are that the notice of the occasion must, unless the trustees agree otherwise,—

- (a) specify the date, time and place of the occasion; and
- (b) be sent to the last known address of each trustee no later than 10 business days before the occasion.

Modifications etc. (not altering text)

- C1** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, [Sch. 2](#)

CHAPTER III

RECEIPTS, PAYMENTS AND RECORDS

Exemption from the requirement for money to be kept by the trustees

11.—(1) For the purposes of section 49(1) of the 1995 Act (trustees of any trust scheme must, except in any prescribed circumstances, keep money received in a separate account [^{F4}with a deposit-taker]) the prescribed circumstances are—

- (a) where the trustees have entered into an arrangement or contract with a person to the effect that the money is to be paid into a [^{F5}an] account held by that person; [^{F6}and separate from one held by or on behalf of the employer as employer] and
 - (i) it is a condition of that arrangement or contract that a record by that person shall be kept of the information referred to in paragraph (2) and such records should be retained for a period of at least 6 years; and
 - (ii) any interest earned on the account shall be credited to the scheme in respect of which the money is deposited;
- (b) where the trustees have [^{F7}an account.
 - [^{F8}(i) kept by them with any of the persons specified in paragraph (3);]
 - (ii) separate from one held by or on behalf of the employer as employer; and
 - (iii) in which the money received by them is to be held.]

(2) The information referred to in paragraph (1)(a)(i) is the—

- (a) amount of money paid into the account, the date of payment and from whom it was received;
- (b) amount of money paid out of the account, the date of withdrawal and to whom payment was made; and
- (c) interest earned on the account of each scheme in respect of which money is deposited.

[^{F9}(3) The persons referred to in paragraph (1)(b)(i) are—

- (a) the Bank of England or the central bank of another EEA State;
- (b) the National Savings Bank; or
- (c) a municipal bank.

(4) In paragraph (3)—

- (a) “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being; and
- (b) “municipal bank” means a company within the meaning of the Companies Act 1985—
 - (i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979 or section 103(3) of the Banking Act 1987; and

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- (ii) is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits;
- (c) the definition of “municipal bank” above must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act.]

Textual Amendments

- F4** Words in reg. 11(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **530(2)**, reg. 1
- F5** Word in reg. 11(1)(a) substituted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(3)(a)(i)**
- F6** Words in reg. 11(1)(a) inserted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(3)(a)(ii)**
- F7** Words in reg. 11(1)(b) substituted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(3)(b)**
- F8** Reg. 11(1)(b)(i) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **530(3)**, reg. 1
- F9** Reg. 11(3) - Reg. 11(4) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **530(4)**, reg. 1

Modifications etc. (not altering text)

- C1** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

Requirement for trustees to keep books and records

- 12.—(1)** Trustees of any trust scheme shall keep—
- (a) records of their meetings (including meetings of any of their number) in accordance with regulation 13; and
 - (b) books and records relating to any of the following transactions—
 - (i) any amount received in respect of any contribution payable in respect of an active member of the scheme;
 - (ii) the date on which a member joins the scheme;
 - (iii) payments of pensions and benefits;
 - (iv) payments made by or on behalf of the trustees to any person including a professional adviser and such records to include the name and address of the person to whom payment was made and the reason for that payment;
 - (v) any movement or transfer of assets from the trustees to any person including a professional adviser and such records to include the name and address of the person to whom the assets were moved or transferred and the reason for that transaction;
 - (vi) the receipt or payment of money or assets in respect of the transfer of members into or out of the scheme and such records to include, in the case of a member who has transferred into the scheme, the name of that member, the terms of the transfer, the name of the transferring scheme, the date of the transfer and date of receipt or payment of money or assets, and, in the case of a member who has transferred out of the scheme, the name of that member, the terms of the transfer, the name of the

scheme transferred to, the date of the transfer, and the date of receipt or payment of money or assets;

^{F10}(vii)

(viii) payments made to a member who leaves the scheme, other than on a transfer, and such records to include the name of that member, the date of leaving, the member’s entitlement at that date, the method used for calculating any entitlement under the scheme and how that entitlement was discharged;

(ix) payments made to the employer; and

(x) other payments to, and withdrawals from, the scheme, including the name and address of the person the payment was made to or from whom it was received.

(2) This regulation shall not apply in the case of a trust scheme which falls within the descriptions referred to in regulation 3(1)(c), (f), (g) and (i) ^{F11}....

[^{F12}(3) This regulation shall not apply in the case of a trust scheme which falls within the description referred to in—

(a) regulation 3(1)(f);

(b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members; ^{F13} ...

^{F14}(c)]

Textual Amendments

F10 Reg. 12(1)(b)(vii) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) Order 2011 \(S.I. 2011/1246\)](#), arts. 1(2)(a), **13**

F11 Words in reg. 12(2) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), regs. 1(3), 10, **Sch.**

F12 Reg. 12(3) added (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(7)**

F13 Word in reg. 12(3)(b) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), regs. 1(3), 10, **Sch.**

F14 Reg. 12(3)(c) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), regs. 1(3), 10, **Sch.**

Modifications etc. (not altering text)

C2 Reg. 12(1) applied in part (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

Records of trustees’ meetings

13.—(1) For the purposes of section 49(4) of the 1995 Act (books and records to be kept in a prescribed form and manner) the prescribed form and manner in the case of records of the meetings of trustees of any trust scheme, is that the record must be in writing and state—

(a) the date, time and place of the meeting;

(b) the names of all the trustees invited to the meeting;

(c) the names of the trustees who attended the meetings and those who did not attend;

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- (d) the names of any professional advisers or any other person who attended the meeting;
- (e) any decisions made at the meeting; and
- (f) whether since the previous meeting there has been any occasion when a decision has been made by the trustees and if so the time, place and date of such a decision, and the names of the trustees who participated in the decision.

[^{F15}(2) This regulation shall not apply in the case of a trust scheme which falls within the descriptions referred to in—

- (a) regulation 3(1)(f); or
- (b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members.]

Textual Amendments

F15 Reg. 13(2) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(8)**

Modifications etc. (not altering text)

C3 Reg. 13(1) applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

Period for which books and records must be kept

14. The books and records referred to in regulations 12 and 13 shall be kept by the trustees for at least 6 years from the end of the scheme year to which they relate.

Modifications etc. (not altering text)

C4 Reg. 14 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

Employer to make payments of benefits into a separate account

15.—[^{F16}(1)] An employer is required, in cases where payments of benefits to members of trust schemes are made by him, to make into a separate account kept by him at a [^{F17}deposit taker], any payment of benefit which has not been made to a member within 2 business days from the date of receipt by the employer.

- (a) [^{F18}(2) (a) In this regulation “deposit taker” means—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of having qualified for authorisation under paragraph 12(1) of that Schedule) to accept deposits;
- (b) sub-paragraph (a) must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act.]

Textual Amendments

- F16** Reg. 15(1) : reg. 15 renumbered as reg. 15(1) (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#) , arts. 1 , **531(2)** , reg. 1
- F17** Words in reg. 15(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#) , arts. 1 , **531(3)** , reg. 1
- F18** Reg. 15(2) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **531(4)**, reg. 1

[^{F19} Prescribed time in which an employer must make payments to trustees or managers

16.—(1) Save as provided in paragraph (2), the prescribed period for the purposes of section 49(8) of the 1995 Act (amount deducted from earnings to be paid to the trustees or managers of the scheme within a prescribed period) is 19 days commencing from the end of the month in which the amount is deducted from the earnings in question.

[^{F20}(2) Where a person becomes an active member of a relevant scheme, in relation to contributions deducted in the relevant period, the prescribed period for the purposes of section 49(8) of the 1995 Act is the period commencing on the day on which the first deduction in the relevant period is made and ending—

- (a) where the contribution is paid to the trustees or managers of the scheme by means of electronic communication, on the 22nd day of the month following the last day of the relevant period; or
 - (b) in any other case, on the 19th day of the month following the last day of the relevant period.
- (3) For the purposes of this regulation—

“the 2008” Act means the Pensions Act 2008;

“electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000;

“relevant period” means a period of three months commencing on the date from which active membership is effective; and

“relevant scheme” means—

- (a) a scheme which is a qualifying scheme in relation to the person under section 16 of the 2008 Act; or
- (b) where the person is enrolled in the scheme pursuant to section 9 of the 2008 Act, a scheme which is registered under chapter 2 of part 4 of the Finance Act 2004.]]

Textual Amendments

- F19** Reg. 16 substituted (1.10.2012) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) Regulations 2010 \(S.I. 2010/772\)](#) , regs. 1(1) , **48**
- F20** Reg. 16(2) (3) substituted (1.11.2013) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/2556\)](#) , regs. 1(1) , **2**

[^{F21}Exemptions from the requirement to notify the Authority or the member of a late contribution payment

16A. Where—

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- (a) an amount corresponding to any contribution payable on behalf of an active member of an occupational pension scheme is deducted from that member's earnings in respect of any employment; and
- (b) is not paid to the trustees or managers of the scheme within the period of 19 days beginning on the first day of the month after which the deduction is made,

the trustees or managers do not need to give notice of that failure to the Authority or member where—

- (c) the scheme is exempt from the requirement to secure the preparation, maintenance and revision of a payment schedule for the purposes of section 87(1) of the 1995 Act (schedules of payments to money purchase schemes) by virtue of regulation 17; or
- [^{F22}(d) the scheme is exempt from the requirement to prepare, review and if necessary revise a schedule of contributions under section 227 of the 2004 Act, by virtue of any of subparagraphs (a) to (i) and (k) to (m) of regulation 17(1) of the Occupational Pension Schemes (Scheme Funding) Regulations 2005].]

Textual Amendments

- F21** Reg. 16A substituted (6.4.2006) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(5)**
- F22** Reg. 16A(d) substituted (30.12.05) by S.I. 2005/3377, reg. 1, Sch. 3(14)(2)

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