

*Status: Point in time view as at 01/04/2016.*

*Changes to legislation: The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 is up to date with all changes known to be in force on or before 12 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)*

## STATUTORY INSTRUMENTS

# 1996 No. 1975

## PENSIONS

### The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996

*Made* - - - - 25th July 1996  
*Coming into force* - - 6th April 1997

<sup>M1</sup> Whereas a draft of these Regulations was laid before Parliament in accordance with the provisions of section 175(2) of the Pensions Act 1995 and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security in exercise of powers conferred on him by sections 41(1) and (6), 116(1), 124(1) and 174(2) and (3) of the Pensions Act 1995<sup>M2</sup>, and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of Part I of that Act by virtue of which they are made<sup>M3</sup>, hereby makes the following regulations:

#### **Modifications etc. (not altering text)**

**C1** Instrument applied in part (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), reg. 1(2), [Sch. 2](#)

#### **Marginal Citations**

**M1** 1995 c. 26.

**M2** Section 124(1) is cited because of the meaning ascribed to "prescribed" and "regulations".

**M3** See section 120(2)(c) of the Pensions Act 1995. This provides that the requirement to consult does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of Part I of the Pensions Act 1995 by virtue of which they are made.

#### **Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations—

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“ear-marked scheme” means an occupational pension scheme [<sup>F1</sup>under which all the benefits other than death benefits are money purchase benefits and all the benefits] are secured by one or more policies of insurance or annuity contracts and such policies or contracts are specifically allocated to the provision of benefits for individual members or any other person who has a right to benefits under the scheme;

[<sup>F2</sup>“group of companies” has the meaning given by section 71 of the Finance Act 2005;]

[<sup>F3</sup>“money purchase benefits” has the same meaning as in section 181(1) of the Pension Schemes Act 1993;]and

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such date as the trustees or managers select; or
  - (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—
    - (i) the commencement or termination of the scheme, or
    - (ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence.
- (3) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered regulation is to the regulation bearing that number in these Regulations;
  - (b) in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

#### Textual Amendments

- F1** Words in reg. 1(2) substituted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 13(2)(a)**
- F2** Words in reg. 1 inserted (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), 2(2)
- F3** Words in reg. 1(2) substituted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 13(2)(b)**

#### Requirement of trustees or managers to obtain documents

2.—(1) [<sup>F4</sup>Subject to paragraphs (2), [<sup>F5</sup>(2B) and (2C)]]], where the requirement of section 47(1) (a) of the Pensions Act 1995 (requirement to appoint an individual or a firm as auditor) applies, the trustees or managers of an occupational pension scheme shall obtain not more than seven months after the end of each scheme year which ends on or after 6th April 1997 —

- (a) accounts, prepared in accordance with regulation 3, audited by the auditor;
- (b) the auditor’s statement, prepared in accordance with regulation 4, about contributions under the scheme.

[<sup>F6</sup>(2) In the case of an ear-marked scheme, the requirements contained in paragraph (1)(a) shall not apply and the trustees and managers of such a scheme shall—

- (a) upon receiving a written request from a person specified in section 41(4) of the Pensions Act 1995—
  - (i) make available a copy of the most recent accounts published in relation to the insurance companies (whether as part of a group of companies or otherwise) with

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which they hold ear-marked policies of insurance or annuity contracts in relation to that person; and

(ii) make that information available to the person who requested it within a reasonable time of receiving the request; and

(b) provide each scheme member within 12 months of the end of each scheme year with a statement detailing the amount of contributions credited to him during that scheme year.]

<sup>F7</sup>(2A) .....

[<sup>F8</sup>(2AA) Information may be made available under paragraph (2) in accordance with regulations 26 to 28 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (giving information and documents).]

[<sup>F9</sup>(2B) In relation to a scheme to which section 47(1)(a) of the Pensions Act 1995 does not apply, the requirement to obtain accounts in accordance with paragraph (1)(a) or an auditor’s statement in accordance with paragraph (1)(b) shall apply—

(a) to such a scheme—

(i) which falls within regulation 3(1)(c) or (i) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996, and

(ii) which has 100 or more members;

(b) to such a scheme which falls within regulation 3(1)<sup>F10</sup>..., (m) or (o) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.]

[<sup>F11</sup>(2C) The requirement to obtain an auditor’s statement in accordance with paragraph (1)(b) does not apply in relation to a scheme for a scheme year in which, on the first day of that scheme year, the scheme has at least 20 participating employers.]

[<sup>F12</sup>(3) Where the trustees or managers of a scheme have failed without reasonable excuse to take all such steps as are necessary to secure compliance with either the requirement to obtain accounts audited by the auditor of the scheme or the requirement to obtain an auditor’s statement about contributions to the scheme in accordance with paragraph (1)(a) or (b), they shall be liable to pay to [<sup>F13</sup>the Regulator], within 28 days from the date of its imposition, a penalty not exceeding—

(a) £5,000 in the case of an individual; and

(b) £50,000 in any other case.

<sup>F14</sup>(4) .....]

**Textual Amendments**

- F4** Words in reg. 2(1) 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), **2(3)(a)**
- F5** Words in reg. 2(1) substituted (1.4.2016) by [The Occupational Pension Schemes \(Requirement to obtain Audited Accounts and a Statement from the Auditor\) \(Amendment\) Regulations 2016 \(S.I. 2016/229\)](#), regs. 1, **2(2)(a)**
- F6** Reg. 2(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), **2(3)(b)**
- F7** Reg. 2(2A) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), reg. 1(3), **Sch.**
- F8** Reg. 2(2AA) inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 4(2)**

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- F9** Reg. 2(2B) inserted (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), **2(3)(c)**
- F10** Word in reg. 2(2B)(b) omitted (1.4.2016) by virtue of The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) (Amendment) Regulations 2016 (S.I. 2016/229), regs. 1, **2(2)(b)**
- F11** Reg. 2(2C) inserted (1.4.2016) by The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) (Amendment) Regulations 2016 (S.I. 2016/229), regs. 1, **2(2)(c)**
- F12** Reg. 2(3)(4) substituted for reg. 2(3) (3.4.2000) by The Occupational and Personal Pension Schemes (Penalties) Regulations 2000 (S.I. 2000/833), regs. 1(1), **2**
- F13** Words in reg. 2(3) 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), **2(3)(d)**
- F14** Reg. 2(4) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **2(3)(e)**

#### Modifications etc. (not altering text)

- C2** Reg. 2(1) applied (with modifications) (5.7.2010) by Application of Pension Legislation to the National Employment Savings Trust Corporation Regulations 2010 (S.I. 2010/8), regs. 1(3), **3(b)**
- C3** Reg. 2(1) applied (with modifications) (5.7.2010) by Application of Pension Legislation to the National Employment Savings Trust Corporation Regulations 2010 (S.I. 2010/8), regs. 1(3), **3(a)**

### Form and content of the accounts audited by the auditor

3. The accounts audited by the auditor of the scheme shall—
- (a) contain the information specified in [<sup>F15</sup>regulation 3A];
  - (b) show a true and fair view of—
    - (i) the financial transactions of the scheme during the scheme year;
    - (ii) the amount and disposition of the assets at the end of the scheme year;
    - (iii) the liabilities of the scheme, other than the liabilities to pay pensions and benefits after the end of the scheme year; and
  - (c) contain a report by the auditor as to whether or not in his opinion the requirements of paragraphs (a) and (b) are satisfied.

#### Textual Amendments

- F15** Words in reg. 3(a) substituted (1.4.2016) by The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) (Amendment) Regulations 2016 (S.I. 2016/229), regs. 1, **2(3)**

### [<sup>F16</sup>Information to be included in the accounts audited by the auditor

- 3A.—**(1) The information specified for the purposes of regulation 3(a) is as follows.
- (2) Particulars of any investment (other than in UK Government securities) in which more than 5 per cent. of the total value of the net assets of the scheme is invested and, if any such investment is an insurance policy, a statement of its main characteristics.

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(3) Except in relation to a trust scheme that applies to earners in employments under different employers, where the scheme has employer-related investments within the meaning of section 40(2) of the Pensions Act 1995 (restriction on employer-related investments), a statement—

- (a) as to the percentage of the scheme’s resources invested in such investments at the end of the scheme year; and
- (b) if that percentage exceeds 5 per cent., as to the percentage of the scheme’s resources which are investments to which regulation 13 of the Occupational Pension Schemes (Investment) Regulations 2005 (investments to which restrictions do not apply) applies.

(4) Where the scheme is a trust scheme that applies to earners in employments under different employers, a statement in accordance with paragraph (3) or a statement—

- (a) listing the 100 largest investments by value held by the scheme at the end of the scheme year and stating what percentage of the resources of the scheme each such investment represents;
- (b) identifying which of the investments mentioned in sub-paragraph (a) are employer-related investments;
- (c) if, as at the end of the scheme year, more than 5 per cent. of the resources of the scheme are invested in employer-related investments in contravention of section 40(1) of the Pensions Act 1995, listing the employer-related investments and the employer concerned.

(5) The total amount of the purchases and the total amount of the sales of investments during the scheme year to which the accounts relate.

(6) A statement whether the accounts have been prepared in accordance with the relevant financial reporting framework applicable to occupational pension schemes current at the end of the scheme year to which the accounts relate and, if not, an indication of where there are any material departures from this framework.

(7) In paragraph (4), “employer-related investments” has the same meaning as in section 40(2) of the Pensions Act 1995 but as if the following words were omitted from subsection (2)—

- (a) in paragraph (a) “or by any person who is connected with, or an associate of, the employer”; and
- (b) “or any such person” in each place where they occur.]

#### Textual Amendments

**F16** Reg. 3A inserted (1.4.2016) by [The Occupational Pension Schemes \(Requirement to obtain Audited Accounts and a Statement from the Auditor\) \(Amendment\) Regulations 2016 \(S.I. 2016/229\)](#), regs. 1, 2(4)

#### Form and content of the auditor’s statement

4.—<sup>[F17]</sup>(1) The auditor’s statement about contributions under the scheme shall contain—

- <sup>[F18]</sup>(a) a statement as to whether or not in his opinion contributions have in all material respects been paid at least in accordance with the schedule of contributions or payment schedule; and]
- (b) if the statement under paragraph (a) is negative or qualified, a statement of the reasons.

<sup>[F19]</sup>(2) Where there is no schedule of contributions or payment schedule in relation to the whole or part of the scheme year, the auditor’s statement about contributions shall contain—

- (a) a statement as to whether or not in his opinion contributions payable to the scheme during that year or that part have been paid in accordance with the scheme rules or contracts

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under which they were payable, and (where appropriate) with the recommendation of the actuary; and

(b) if the statement under paragraph (a) is negative or qualified, a statement of the reasons.]

**Textual Amendments**

- F17** Reg. 4(1): reg. 4 renumbered as reg. 4(1) (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 13(3)**
- F18** Reg. 4(1)(a) 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), **2(4)**
- F19** Reg. 4(2) inserted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 13(3)**

Signed by authority of the Secretary of State for Social Security.

*Oliver Heald*  
Parliamentary Under-Secretary of State,  
Department of Social Security.

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## SCHEDULE

Regulation 3

### CONTENTS OF ACCOUNTS AUDITED BY THE AUDITOR OF THE SCHEME

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#### Textual Amendments

**F20** Sch. revoked (1.4.2016) by [The Occupational Pension Schemes \(Requirement to obtain Audited Accounts and a Statement from the Auditor\) \(Amendment\) Regulations 2016 \(S.I. 2016/229\)](#), regs. 1, 2(5)

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#### Textual Amendments

**F20** Sch. revoked (1.4.2016) by [The Occupational Pension Schemes \(Requirement to obtain Audited Accounts and a Statement from the Auditor\) \(Amendment\) Regulations 2016 \(S.I. 2016/229\)](#), regs. 1, 2(5)

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**EXPLANATORY NOTE**

(This note is not part of the Regulations)

The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 ("the Regulations") make provision in respect of documents which the trustees or managers of an occupational pension scheme must obtain.

The Regulations are made before the end of the period of six months beginning with the coming into force of the provisions of Part I of the Pensions Act 1995 by virtue of which they are made and therefore the requirement to consult does not apply.

Regulation 1 relates to citation, commencement and interpretation.

Regulation 2 requires trustees or managers to obtain accounts and the auditor's statement within a prescribed time. Trustees or managers who fail to obtain accounts or the auditor's statement without reasonable excuse are guilty of an offence and liable to a fine.

Regulation 3 and the Schedule makes provision in respect of the form and content of accounts.



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Regulation 4 makes provision in respect of the auditor's statement.

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, including regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Private Pensions, 11th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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