

## STATUTORY INSTRUMENTS

# 2005 No. 3378

## The Occupational Pension Schemes (Investment) Regulations 2005

### Restrictions on employer-related investments

**12.**—(1) This regulation [<sup>F1</sup>applies to schemes] except small schemes.

[<sup>F2</sup>(2) Subject to regulations [<sup>F3</sup>13, 16, 16A and 16B], not more than five per cent. of the current market value of the resources of a scheme may at any time be invested in employer-related investments.

(2A) Subject to regulations 14, 15, [<sup>F4</sup>15A, 16, 16A and 16B], none of the resources of a scheme may at any time be invested in any employer-related loan.

(2B) Subject to [<sup>F5</sup>regulations 16 and 16A], employer-related loans under regulations 14, [<sup>F6</sup>15, 15A, 16A(9) and 16B] are to be regarded as employer-related investments for the purposes of determining the percentage of a scheme's resources invested in employer-related investments under paragraph (2).]

(3) [<sup>F7</sup>Subject to regulations 16A and 16B,] none of the resources of a scheme may at any time be invested in any employer-related investment the making of which involves the entering by the trustees or managers into a transaction at an undervalue where the agreement to enter into that transaction was made on or after the 6th April 1997.

(4) In this regulation and in regulations [<sup>F8</sup>14, 15 and 15A] “employer-related loan” means—

- (a) a loan mentioned in section 40(2)(d) of the 1995 Act (including, for the purposes of this regulation only, one which falls within section 40(2)(d) by virtue of section 40(3) of that Act);
- (b) a security mentioned in section 40(2)(a) of the 1995 Act which is an instrument creating or acknowledging indebtedness, except any such security which is listed on a recognised stock exchange; and
- (c) an employer-related investment prescribed as such by regulation 11(b) or (11)(c).

(5) In paragraph (3), “transaction at an undervalue” has the same meaning in relation to trustees and managers as it has in section 238(4) of the Insolvency Act 1986 (transactions at an undervalue (England and Wales)) in relation to a company to which that section applies.

### Textual Amendments

- F1** Words in reg. 12(1) substituted (6.4.2007) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **16(3)**
- F2** Regs. 12(2)-(2B) substituted for reg. 12(2) (23.9.2010) by [Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(3)(b), **19(2)(a)**
- F3** Words in reg. 12(2) substituted (1.10.2022) by [The Occupational Pension Schemes \(Investment\) \(Employer-related investments by Master Trusts\) \(Amendment\) Regulations 2022 \(S.I. 2022/827\)](#), regs. 1(4), **2(3)(a)**

- F4** Words in reg. 12(2A) substituted (1.10.2022) by The Occupational Pension Schemes (Investment) (Employer-related investments by Master Trusts) (Amendment) Regulations 2022 (S.I. 2022/827), regs. 1(4), **2(3)(b)**
- F5** Words in reg. 12(2B) substituted (1.10.2022) by The Occupational Pension Schemes (Investment) (Employer-related investments by Master Trusts) (Amendment) Regulations 2022 (S.I. 2022/827), regs. 1(4), **2(3)(c)(i)**
- F6** Words in reg. 12(2B) substituted (1.10.2022) by The Occupational Pension Schemes (Investment) (Employer-related investments by Master Trusts) (Amendment) Regulations 2022 (S.I. 2022/827), regs. 1(4), **2(3)(c)(ii)**
- F7** Words in reg. 12(3) inserted (1.10.2022) by The Occupational Pension Schemes (Investment) (Employer-related investments by Master Trusts) (Amendment) Regulations 2022 (S.I. 2022/827), regs. 1(4), **2(3)(d)**
- F8** Words in reg. 12(4) substituted (23.9.2010) by Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615), regs. 1(3)(b), **19(2)(b)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Investment) Regulations 2005, Section 12.