

2006 No. 686

PENSIONS

The Occupational Pension Schemes (Trustees' Knowledge and Understanding) Regulations 2006

<i>Made</i> - - - -	<i>9th March 2006</i>
<i>Laid before Parliament</i>	<i>16th March 2006</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 249(2)(a) and 318(1) of the Pensions Act 2004(a).

This instrument is made before the end of the period of six months beginning with the coming into force of section 249(2)(a) of that Act, by virtue of which it is made(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Trustees' Knowledge and Understanding) Regulations 2006 and shall come into force on 6th April 2006.

(2) In these Regulations—

“the 2004 Act” means the Pensions Act 2004;

“the 1995 Act” means the Pensions Act 1995(c).

Exceptions for trustees of small schemes

2.—(1) The requirements imposed by sections 247(3) and (4) of the 2004 Act (requirement for knowledge and understanding: individual trustees) shall not apply to trustees of schemes with fewer than twelve members where all the members are trustees of the scheme and either—

(a) 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

(b) the scheme has a trustee who is independent in relation to the scheme for the purposes of section 23 of the 1995 Act(d) (power to appoint independent trustees), and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section;

(a) 2004 c.35. Section 318(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(b) See section 317(2)(c) of the Pensions Act 2004 which provides that the obligation under section 317(1) of that Act for the Secretary of State to consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8) does not apply where regulations are made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which they are made.

(c) 1995 c.26.

(d) Section 23 was substituted by section 36(3) of the Pensions Act 2004.

(2) The requirements imposed by section 248(3) and (5) of the 2004 Act (requirement for knowledge and understanding: corporate trustees) shall not apply to trustees of schemes with fewer than twelve members where a company is a trustee of the scheme and all of the members of the scheme are directors of the company and either—

- (a) the provisions of the scheme provide that any decision made by the company in its capacity as trustee is made by the unanimous agreement of all the directors who are members of the scheme, or
- (b) one of the directors is a trustee who is independent in relation to the scheme for the purposes of section 23 of the 1995 Act and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section.

Individual trustees: period of grace

3. Section 247(3) and (4) of the 2004 Act shall not apply to any individual who is a trustee of a relevant scheme for a period of six months beginning with the date of his appointment as such a trustee, unless—

- (a) he is an independent trustee who meets the requirements of section 23(1) of the 1995 Act; or
- (b) he was appointed as a consequence of holding himself out as having expertise in any of the matters listed in section 247(4) of the 2004 Act or in any regulations made under paragraph (c) of that section.

Corporate trustees: period of grace

4. Section 248(3) and (5) of the 2004 Act shall not apply to any individual, who exercises any function which a company has as trustee of a relevant scheme, for a period of six months beginning with the date of his appointment to the company, unless—

- (a) he is an independent trustee who meets the requirements of section 23(1) of the 1995 Act; or
- (b) he was appointed as a consequence of holding himself out as having expertise in any of the matters listed in section 248(5) of the 2004 Act or in any regulations made under paragraph (c) of that section.

Signed by authority of the Secretary of State for Work and Pensions.

Stephen C. Timms
Minister of State,
Department for Work and Pensions

9th March 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 247 and 248 of the Pensions Act 2004 (c.35) (“the 2004 Act”) set out requirements that trustees of occupational pension schemes must satisfy to properly exercise their functions as trustees. Trustees must be conversant with and have knowledge and understanding of the matters listed in sections 247(3) and (4) and 248(4) and (5) of the 2004 Act.

Regulation 2 exempts trustees of small schemes from the requirements in section 247(3) and (4) and section 248(3) and (5) of the 2004 Act (“the trustee requirements”).

Regulations 3 and 4 provide that individual trustees and persons who exercise functions of corporate trustees have, from the date of their appointment, a six-month period of grace from the trustee requirements. This does not apply if the person is an independent trustee for the purpose of section 23 of the Pensions Act 1995 (c.26) or was appointed as a consequence of holding himself out as having expertise in any of the matters set out in section 247(4) or 248(5) of the 2004 Act.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the 2004 Act, by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply. However, a consultation exercise has nevertheless taken place.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

STATUTORY INSTRUMENTS

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