
STATUTORY INSTRUMENTS

2022 No. 827

**The Occupational Pension Schemes (Investment)
(Employer-related investments by Master
Trusts) (Amendment) Regulations 2022**

The Occupational Pension Schemes (Investment) Regulations 2005

2.—(1) The Occupational Pension Schemes (Investment) Regulations 2005⁽¹⁾ are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)⁽²⁾, in paragraph (5) after “these Regulations” insert “, save in relation to regulation 16A”.

(3) In regulation 12 (restrictions on employer-related investments)⁽³⁾—

- (a) in paragraph (2), for “13 and 16” substitute “13, 16, 16A and 16B”;
- (b) in paragraph (2A), for “15A and 16” substitute “15A, 16, 16A and 16B”;
- (c) in paragraph (2B)—
 - (i) for “regulation 16” substitute “regulations 16 and 16A”; and
 - (ii) for “15 and 15A” substitute “15, 15A, 16A(9) and 16B”; and
- (d) at the beginning of paragraph (3), insert “Subject to regulations 16A and 16B,”.

(4) In regulation 15A(1) (deposits)⁽⁴⁾, for “regulation 12(4)” substitute “regulations 12(4) or 16A(5)”.

(5) In regulation 16 (multi-employer schemes)⁽⁵⁾, at the beginning of paragraph (5), insert “Subject to regulations 16A and 16B,”.

(6) After regulation 16 insert—

“Authorised Master Trust schemes

16A.—(1) Subject to paragraphs (2) and (3), this regulation applies to a scheme which is—

- (a) a Master Trust scheme to which Part 1 of the Pension Schemes Act 2017 (Master Trusts)⁽⁶⁾ applies (and where that scheme provides money purchase benefits in conjunction with other benefits, references to that scheme are to the scheme only to the extent that it provides money purchase benefits);
- (b) authorised in accordance with section 5(4)(a) of the Pension Schemes Act 2017 (decision on application for authorisation of a Master Trust scheme); and
- (c) used by 500 or more employers.

(1) [S.I. 2005/3378](#).

(2) There are amendments to regulation 1 but they are not relevant to this instrument.

(3) Regulation 12 is amended by [S.I. 2007/814](#) and [S.I. 2009/615](#).

(4) Regulation 15A is inserted by [S.I. 2009/615](#) and amended by [S.I. 2013/472](#) and [S.I. 2019/192](#).

(5) Regulation 16 is amended by [S.I. 2009/615](#).

(6) [2017 c. 17](#).

(2) This regulation continues to apply to a scheme during any period of less than two years in which the number of employers using the scheme falls below 500.

(3) If a scheme to which this regulation applies ceases to be authorised in accordance with section 5(4)(a) of the Pension Schemes Act 2017, this regulation continues to apply to the scheme until the date which is two years after the date on which a decision to withdraw authorisation from the scheme becomes final in accordance with section 35 of the Pension Schemes Act 2017 (when a decision to withdraw authorisation becomes final).

(4) For the purposes of determining whether the scheme complies with regulation 12(2) (restrictions on employer-related investments), “employer-related investments” means—

- (a) shares or other securities issued by a relevant person;
- (b) land which is occupied or used by, or subject to a lease in favour of, a relevant person;
- (c) property (other than land) which is used for the purposes of any business carried on by a relevant person;
- (d) loans to a relevant person;
- (e) any guarantee of, or security given to secure, obligations of a relevant person, and for the purposes of section 40 of the 1995 Act and these Regulations a guarantee or security given by the trustees or managers shall be regarded as an investment of resources of the scheme equal to the amount of the obligations guaranteed or secured;
- (f) any loan arrangement entered into with any person whereby the trustees’ or managers’ right to or expectation of repayment depends on the actions or situation of a relevant person, unless it was not the trustees’ or managers’ purpose in entering into the arrangement to provide financial assistance to the relevant person;
- (g) the proportion attributable to the scheme’s resources (whether directly or through any intervening collective investment scheme) of any investments which—
 - (i) have been made by the operator of any collective investment scheme, and
 - (ii) would, if they had been made by the scheme, have met any of the descriptions set out in sub-paragraphs (a) to (f);
- (h) where any of a scheme’s resources are invested in an insurance policy that meets the description set out in regulation 11(d), the proportion of the scheme’s resources invested in that policy which is the same proportion as B is of A where—
 - A represents all the assets of the insurer held in the fund, and
 - B represents that part of A which would, if invested by the scheme, have met any of the descriptions set out in sub-paragraphs (a) to (f); and
- (i) where any of a scheme’s resources are invested in an insurance policy that meets the description set out in regulation 11(e), any investments made by the insurer from the premiums or other consideration or monies described in regulation 11(e), which would have met any of the descriptions set out in sub-paragraphs (a) to (f) if they had been made by the scheme.

(5) For the purposes of determining whether the scheme complies with regulation 12(2A) and for the purposes of regulation 12(2B), “employer-related loan” means—

- (a) a loan to a relevant person (including one which falls within this description by virtue of section 40(3) of the 1995 Act);
- (b) a security described in paragraph (4)(a) which is an instrument creating or acknowledging indebtedness, except any such security which is listed on a recognised stock exchange;

- (c) an employer-related investment prescribed as such by regulation 11(b), which meets the description set out in paragraph (4)(e); and
 - (d) an employer-related investment prescribed as such by regulation 11(c), which meets the description set out in paragraph (4)(f).
- (6) For the purposes of regulation 12(3), “employer-related investment” has the meaning set out in paragraph (4).
- (7) In regulation 13(10) (investments to which restrictions do not apply), “employer-related investments” has the meaning set out in paragraph (4).
- (8) Regulation 16(5)(a) (multi-employer schemes) applies with the omission of “and in any event must not exceed 20 per cent of the current market value of the scheme”.
- (9) If an investment falls within the definition of “employer-related investments” set out in paragraph (4) or the definition of “employer-related loan” set out in paragraph (5) on or after 1st October 2022, other than as a result of new investment by the scheme, the investment may be retained, or left undischarged, until whichever is the latest of—
- (a) the date falling two years after the date on which it first fell within the definition set out in paragraph (4) or paragraph (5); and
 - (b) where repayment cannot by virtue of contractual or other legal obligations be required, or where disinvestment cannot be effected before the date mentioned in sub-paragraph (a), the earliest date on which repayment can be enforced or disinvestment effected.
- (10) Paragraph (9) does not apply in respect of any sum regarded as a loan under section 40(3) of the 1995 Act.
- (11) For the purposes of this regulation—
- “active member” has the meaning set out in section 124(1) of the 1995 Act (interpretation of Part I)(7);
 - “employer” means a person who employs or engages persons who are, or are entitled to become, members of the scheme, including at least one active member of the scheme;
 - “money purchase benefits” has the meaning set out in section 181(1) of the Pension Schemes Act 1993 (general interpretation)(8);
 - “relevant person” means a scheme funder, a scheme strategist or any person who is connected with, or an associate of, a scheme funder or a scheme strategist;
 - “scheme funder” and “scheme strategist” have the meanings set out in section 39 of the Pension Schemes Act 2017 (interpretation of Part 1); and
 - “securities” has the meaning set out in section 40(2A) of the 1995 Act (restrictions on employer-related investments) and must be read in accordance with section 40(2B) of that Act(9).

Schemes to which regulation 16A ceases to apply

16B. To the extent that

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- (7) Section 124(1) is prospectively amended by section 320 of and Part 1 of Schedule 13 to the Pensions Act 2004 (c. 35). There are other amendments to section 124(1) but they are not relevant to this instrument.
 - (8) Section 181(1) is amended by S.I. 2005/2053 and by section 29(1) of the Pensions Act 2011 (c. 19). It is prospectively amended by section 6 of and paragraph 3(3)(a) and (b) of Schedule 1 to the Pension Schemes Act 2021 and these amendments will come into force in accordance with S.I. 2022/721 (C. 43). There are other amendments to section 181(1) but they are not relevant to this instrument.
 - (9) Sections 40(2A) and 40(2B) were inserted by S.I. 2001/3649 and substituted by S.I. 2004/355.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) an investment becomes an employer-related loan or an employer-related investment as a result of regulation 16A ceasing to apply to a scheme; and
- (b) repayment or disinvestment cannot be effected immediately by virtue of contractual or other legal obligations,

the investment may be retained until the earliest date on which, having regard to contractual and other legal obligations, repayment or disinvestment can be effected.”.