1992 No. 47

SOCIAL SECURITY

The Occupational Pension Schemes (Investment of Scheme's Resources) Regulations (Northern Ireland) 1992

Made . . . . . 17th February 1992

Coming into operation . . 9th March 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(5), 58A(1) and 63A(1) of the Social Security Pensions (Northern Ireland) Order 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Occupational Pension Schemes (Investment of Scheme's Resources) Regulations (Northern Ireland) 1992 and shall come into operation on 9th March 1992.

(2) In regulations 2 to 5—

"member" means a person who is in pensionable service for the purposes of the scheme in question or, as the case may be, a person who qualifies for benefits under the scheme in question by reason of his pensionable service;

"pensionable service" has the same meaning as in paragraph 3(1) of Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975 (preservation requirements: interpretation);

"scheme" means an occupational pension scheme.

Schemes to which regulation 3 applies

2.—(1) Subject to paragraph (2), regulation 3 applies to schemes—

(*a*) which either—

(i) are approved for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(**b**) (retirement benefit schemes) or are the subject of an application for such approval which has not been determined; or

(ii) are exempt from income tax under section 608 of that Act (superannuation funds approved before 6th April 1980); and

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(**a**) S.I. 1975/1503 (N.I. 15); by virtue of Article 2(3), definitions in Schedule 17 to the Social Security (Northern Ireland) Act 1975 (c. 15) apply to the exercise of certain powers conferred under this Order. Article 58A was inserted by Schedule 2 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and Article 63A was inserted by paragraph 3 of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(**b**) 1988 c. 1

(*b*) which have at least one member in the United Kingdom and either—

(i) are established in the United Kingdom; or

(ii) have one or more trustees resident in the United Kingdom.

(2) Regulation 3 shall not apply to schemes—

(*a*) which have less than 12 members, each of whom is a trustee of the scheme; and

(*b*) the rules of which provide that before any investment of the resources of the scheme is made in an employer-related investment, each member shall agree in writing to the making of that investment.

Restriction on self-investment

3.—(1) Subject to paragraph (2) and regulation 5, not more than 5 per cent. of the current market value of the resources of a scheme may at any time be invested in employer-related investments.

(2) The restriction prescribed in paragraph (1) shall not apply to any employer-related investment of resources to which regulation 4 applies.

Investments to which the restriction does not apply

4.—(1) This regulation applies to—

(*a*) any employer-related investment of resources in an account (including a current, deposit or share account) with a building society as defined in the Building Societies Act 1986(**a**) or an institution authorised under Part I of the Banking Act 1987(**b**); or

(*b*) any employer-related investment of resources which have been derived from voluntary contributions within the meaning of Article 14 of the Social Security (Northern Ireland) Order 1986(**c**) (voluntary contributions) and are invested in employer-related investments with the written agreement of the member who paid those contributions.

(2) This regulation applies to any employer-related investment of resources in the purchase of a policy of insurance or an annuity contract so as to provide benefits in respect of the pensionable service of a member (whether or not that policy or contract also relates to any other member) where—

(*a*) the policy or contract is specifically allocated to the provision of those benefits for that member or any other person mentioned or described in—

(i) that policy or contract; or

(ii) the scheme rules or a nomination thereunder; and

(*b*) that member—

(i) has the right under the rules of the scheme to choose the policy or contract in question; and

(ii) has agreed in writing that the resources in question may be invested in employer-related investments.

(**a**) 1986 c. 53
(**b**) 1987 c. 22
(**c**) S.I. 1986/1888 (N.I. 18)

Existing cases

5.—(1) Where on 9th March 1992 the resources of a scheme which are invested in employer-related investments exceed the restriction prescribed by regulation 3(1), those investments may be retained in accordance with paragraph (2).

(2) To the extent that the employer-related investments mentioned in paragraph (1) consist of—

(*a*) employer-related loans which are in being on 17th February 1992, they may be retained until 8th March 1994 or, where repayment cannot be required on or before that date, they may be retained until the earliest date on which repayment can be enforced;

(*b*) securities which are listed on a recognised stock exchange on 9th March 1992, they may be retained until 8th March 1994;

(*c*) employer-related securities that are traded in a second tier market of a recognised stock exchange on 9th March 1992, they may be retained until 8th March 1997;

(*d*) employer-related investments to which sub-paragraphs (*a*) to (*c*) do not apply, they may be retained without limit of time.

(3) There shall be no new investment in employer-related investments where the resources of a scheme which have been retained in employer-related investments by virtue of paragraph (2) exceed the restriction prescribed by regulation 3(1).

(4) In this regulation—

"loans" does not include any sums regarded as loans under Article 63A(3) of the Social Security Pensions (Northern Ireland) Order 1975 (restrictions on investment of scheme's resources in employer-related assets);

"recognised stock exchange" has the meaning as in section 841 of the Income and Corporation Taxes Act 1988 (recognised stock exchange and recognised investment exchanges);

"retained", in relation to a loan, means left undischarged;

"resources" does not include any resources to which regulation 4 applies.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986

6.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986(**a**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 9(1)(*c*) (availability of audited accounts, actuarial statements and other information) for "15" there shall be substituted "17".

(3) The following paragraphs shall be added after paragraph 15 of Schedule 5 (information to accompany audited accounts and actuarial statement)—

(a) S.R. 1986 No. 225: relevant amending regulations are S.R. 1987 No. 283

"**16.** Where the scheme has employer-related investments within the meaning of Article 63A of the Order—

(*a*) a copy of a list of those investments;

(*b*) a copy of a statement on the proportion of the scheme's resources that are invested in employer-related investments;

(*c*) if that proportion exceeds 5 per cent., information on whether and, if so, how it is intended to reduce that percentage.

17. Where the Occupational Pension Schemes (Investment of Scheme's Resources) Regulations (Northern Ireland) 1992(**a**) apply, a copy of a statement on whether the investments of the scheme are invested in accordance with those regulations.".

Sealed with the Official Seal of the Department of Health and Social Services on 17th February 1992.

(L.S.) *A. N. Burns*
Assistant Secretary

(a) S.R. 1992 No. 47

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations restrict the proportion of the resources of an occupational pension scheme that may be invested in employer-related investments.

Regulation 1 defines ''member'', ''pensionable service'' and ''scheme'' for the purposes of regulations 2 to 5.

Regulation 2 provides that the restriction on investment in employer-related investments in regulation 3 shall, subject to certain exceptions, apply to those occupational pension schemes which are—

(*a*) approved by the Inland Revenue or subject to an application for such approval; or

(*b*) exempt from tax by reason of being a superannuation fund approved before 6th April 1980.

Regulation 3 provides that the proportion of a scheme's resources that may at any time be invested in employer-related investments must not exceed 5 per cent.

By regulation 4 that restriction does not apply to employer-related investments—

(*a*) in bank or building society accounts;

(*b*) of additional voluntary contributions provided that the member has agreed in writing; and

(*c*) in policies of insurance issued in respect of persons who have agreed in writing.

Regulation 5 provides that any employer-related investments which exceed the restriction prescribed by regulation 3(1) on 9th March 1992 may, subject to certain time limits, be retained.

Regulation 6 requires trustees of schemes to include in their annual report information on any employer-related investments of the scheme.