
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 178

PENSIONS

Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000

Made 19th May 2000

Coming into operation 1st August 2000

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SCHEDULE

Limits on investments.

The Department of the Environment, in exercise of the powers conferred on it by Article 9 of and Schedule 3 to the Superannuation (Northern Ireland) Order 1972^(a) and now vested in it^(b) and of every other power enabling it in that behalf, and after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers’

(a) S.I. 1972/1073 (N.I. 10); Article 14 was amended by Article 12 of the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

(b) S.R.& O. (N.I.) 1973 No. 504 Art. 7(1); S.I. 1976/424 (N.I. 6)

Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following regulations:—

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000, and shall come into operation on 1st August 2000.

General definitions

2. In these Regulations—

“the 2000 regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000(a);

“the Committee” has the same meaning as in Schedule A1 to the 2000 regulations;

“European authorised institution” and “European institution” have the same meanings as in the Banking Co-ordination (Second Council Directive) Regulations 1992(b);

“FSAVC scheme” is a scheme approved by virtue of section 591(2)(h) of the Income and Corporation Taxes Act 1988(c);

“the fund” means the superannuation fund established under the Local Government (Superannuation) Regulations (Northern Ireland) 1950(d);

“fund money” means money in the fund;

“home-regulated investment business” has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992;

“limited partner” means a person who is not liable for the debts or obligations of a partnership beyond the amount he contributed at the time he became a partner;

“member” has the same meaning as in Article 121(1) of the Pensions (Northern Ireland) Order 1995(e);

“proper advice”, in relation to the Committee, means the advice of a person who is reasonably believed by it to be qualified by his ability in and practical experience of financial matters (including any suitable officer of the Committee);

“recognised stock exchange” has the same meaning as in section 841(1) of the Income and Corporation Taxes Act 1988;

“relevant institution” means—

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- (a) S.R. 2000 No. 177
(b) S.I. 1992/3218
(c) 1988 c. 1
(d) S.R. & O.(N.I.) 1950 No.103
(e) S.I. 1995/3213 (N.I. 22)

- (a) the Bank of England,
- (b) an institution authorised under Part I of the Banking Act 1987^(a) (regulation of deposit-taking business),
- (c) a person to whom the restriction on acceptance of deposits in section 3 of that Act does not apply because he is specified in Schedule 2 to that Act (central banks etc.), or
- (d) a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits;

“securities” includes shares, stock and debentures;

“statement of investment principles” means the statement referred to in regulation 10(1) or any revision of it, as appropriate;

“stock lending arrangement” means an arrangement such as is mentioned in section 263B of the Taxation of Chargeable Gains Act 1992^(b);

“sub-underwriting contract” means a contract with a person who is underwriting a share issue to acquire the shares from him if he requires it;

“traded option” means an option quoted on a recognised stock exchange or on the London International Financial Futures Exchange;

“unquoted securities investment partnership” means a partnership for investing in securities which are normally not quoted on a recognised stock exchange when the partnership buys them.

Definition of “investment”

3.—(1) Subject to paragraphs (2) to (9), in these Regulations “investment” and similar expressions have their normal meaning.

(2) The following provisions of this regulation specify things which count as investments for these Regulations, although they might not otherwise do so, and exclude things which might otherwise count.

(3) A contract entered into in the course of dealing in financial futures or traded options is an investment.

(4) An insurance contract is an investment if and only if the contract is made with a person within paragraph (5) for whom making the contract is business within class III or class VII in Schedule 1 to the Insurance Companies Act 1982^(c) (linked long term and fund management business).

(5) The persons within this paragraph are—

- (a) a person whom that Act permits to carry on such business, and
- (b) an insurance company which, because it has its head office in a member State, is permitted under the law of such a State to carry on insurance business of a similar sort.

(6) A stock lending arrangement is an investment if and only if, in respect of it, the conditions in regulations 5.58 and 5.60 of Section L of the Financial

^(a) 1987 c. 22
^(b) 1992 c. 12
^(c) 1982 c. 50

Services (Regulated Schemes) Regulations 1991 are complied with, modified as specified in paragraph (7).

(7) The modifications referred to in paragraph (6) are—

(a) for the references in regulation 5.58 to section 129 of the Income and Corporation Taxes Act 1988 substitute a reference to section 263B of the Taxation of Chargeable Gains Act 1992;

(b) delete paragraphs 1a, 1c(ii) and 2b ;

(c) for the references in both those regulations to the trustee, substitute a reference to the Committee; and

(d) for the reference in paragraph 1c(iii) of regulation 5.58 to Guidance of the Board, substitute a reference to Guidance Release 4/91 issued by the Securities and Investments Board in June 1991.

(8) It is an investment to contribute to a limited partnership in an unquoted securities investment partnership.

(9) A sub-underwriting contract is an investment.

Definition of “investment manager”

4.—(1) This regulation describes those persons who count as an “investment manager” for the purposes of these Regulations.

(2) A person is an investment manager if he is authorised under the Financial Services Act 1986(a) to manage the assets of occupational pension schemes.

(3) A person is also an investment manager if he—

(a) does not transact investment business (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom;

(b) has a head office situated outside the United Kingdom in a member State;

(c) is recognised by the law of that State as a national of a member State;

(d) is authorised under that law to engage in one or more of the activities specified in Part II of Schedule 1 to the Financial Services Act 1986 (which lists different sorts of investment business); and

(e) is not prevented by that law from managing the assets of occupational pension schemes or assets belonging to another person.

(4) A European institution carrying on home-regulated investment business in the United Kingdom is also an investment manager.

MANAGEMENT OF THE FUND

Management of the fund

5.—(1) This regulation specifies the sums which the Committee must pay or credit to and may pay from the fund it administers.

(a) 1986 c. 60

(2) The Committee must pay or credit to the fund, in addition to any other sum the 2000 regulations specify must be paid or credited to the fund—

(a) the amounts payable by it or paid to it for the credit of the fund by employing authorities under regulations L5 to L7 of the 2000 regulations (employers' contributions),

(b) all members' contributions except contributions payable under regulation C24 of the 2000 regulations (additional voluntary contributions),

(c) all income arising during the year from investment of the fund,

(d) all capital money deriving from such investment, and

(e) all additional payments received by it under the 2000 regulations.

(3) Interest under regulations L5 to L7 of the 2000 regulations must be credited and paid to the fund .

(4) Any costs, charges and expenses incurred in administering the fund (except those incurred in connection with a FSAVC scheme) may be paid from it.

Choice of investment managers

6.—(1) Instead of managing and investing fund money itself, the Committee may appoint one or more investment managers to manage and invest the fund money for it.

(2) The Committee may only appoint an investment manager if it complies with paragraphs (3) to (6).

(3) The Committee must reasonably believe that the investment manager is suitably qualified by his ability in and practical experience of financial matters to make investment decisions for it.

(4) The investment manager must not be an employee of the Committee.

(5) The Committee must be satisfied—

(a) that the fund is managed by an adequate number of investment managers; and

(b) that the value of the fund money to be managed by any one investment manager will not be excessive.

(6) The Committee must have taken proper advice.

Terms of appointment of investment managers

7.—(1) Investment managers must, if appointed, be appointed on the terms set out in paragraphs (2) to (7).

(2) The Committee must be able to terminate the appointment by not more than one month's notice.

(3) The investment manager must report to the Committee at least once every three months on the action he has taken for it.

(4) The investment manager must comply with all the Committee's instructions.

(5) Subject to paragraph (6) the investment manager in managing the fund must take into account—

- (a) that fund money must be invested in a wide variety of investments,
- (b) the suitability of those types of investment for the fund,
- (c) the suitability of any particular investment of that type, and
- (d) the Committee's statement of investment principles.

(6) Paragraph (5)(a) does not apply where the investment manager only manages part of the fund and the terms of his appointment provide that it does not apply.

(7) The investment manager must not make investments which would contravene the Committee's statement of investment principles, regulation 12 or the Schedule.

(8) In determining the investment manager's terms of appointment, the Committee must take proper advice.

Review of investment manager's performance

8.—(1) Where the Committee has appointed an investment manager it must keep his performance under review.

(2) At least once every three months the Committee must review the investments the investment manager has made.

(3) Periodically the Committee must consider whether or not to retain the investment manager.

(4) In reviewing an investment manager's decisions and appointment, the Committee must take proper advice—

- (a) if regulation 7(5)(a) applies, about the variety of the investments he has made, and
- (b) about the suitability of those investments for the fund generally and as investments of their type.

INVESTMENTS

Use and investment of fund money

9.—(1) The Committee must invest any fund money that is not needed immediately to make payments from the fund.

(2) The Committee may vary its investments.

(3) The Committee's investment policy must be formulated with a view—

- (a) to the advisability of investing fund money in a wide variety of investments; and
- (b) to the suitability of particular investments and types of investments.

(4) The Committee must obtain proper advice at reasonable intervals about its investments.

(5) The Committee must consider such advice in taking any steps about its investments.

Statement of investment principles

10.—(1) The Committee must, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement of the principles governing its decisions about investments.

(2) The statement must cover its policy on—

(a) the types of investments to be held,

(b) the balance between different types of investments,

(c) risk,

(d) the expected return on investments,

(e) the realisation of investments,

(f) the extent (if at all) to which social, environmental or ethical considerations are taken into account in the selection, retention and realisation of investments, and

(g) the exercise of the rights (including voting rights) attaching to investments, if it has any such policy.

(3) The first such statement must be published on or before 1st December 2000.

(4) The written statement must be revised by the Committee in accordance with any material change in its policy on the matters referred to in paragraph (2) and published .

Investments under section 11 of the Trustee Investments Act 1961

11.—(1) The Committee may invest in any investment made in accordance with a section 11 scheme without any restriction as to quantity.

(2) A “section 11 scheme” is a scheme under section 11 of the Trustee Investments Act 1961(a) (which enables the Treasury to approve schemes for local authorities to invest collectively).

Restrictions on investments

12.—(1) The limits which apply to certain sorts of investments are set out in the Schedule.

(2) The percentages set out in the headings in Part I of the Schedule are the limits on the amount of each description of investment listed under those headings.

(3) The percentages referred to in paragraph (2) are percentages of the total value of all existing investments in the fund before making the investment which is subject to the limit.

(4) The limits set out in the Schedule only apply at the time the investment is made.

(5) The exceptions to the limits are specified in Part II of the Schedule.

(a) 1961 c. 62

Sealed with the Official Seal of the Department of the Environment on
19th May 2000.

(L.S.)

John McConnell
A senior officer of the
Department of the Environment

Limits on Investments**PART I***1% limit*

1. Any single sub-underwriting contract.

2% limit

2. All contributions to any single partnership.

5% limit

3. All contributions to partnerships.

10% limit

4. All deposits with a person specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987 and all loans (but see paragraph 14).

5. All investments in unlisted securities of companies.

6. Any single holding (but see paragraphs 15 and 16).

7. All deposits with any single bank, institution or person (other than the National Savings Bank).

15% limit

8. All sub-underwriting contracts.

25% limit

9. All investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body (but see paragraph 16).

10. All investments in open-ended investment companies where the collective investment schemes constituted by the companies are managed by any one body.

11. All investments in units or other shares of the investments subject to the trusts of unit trust schemes and all investments in open-ended investment companies where the unit trust schemes and the collective investment schemes constituted by those companies are managed by any one body (but see paragraph 16).

12. All insurance contracts.

13. All securities transferred (or agreed to be transferred) by the Committee under stock lending arrangements.

PART II**EXCEPTIONS TO LIMITS IN PART I**

14. The restriction in paragraph 4 does not apply to a Government loan.

15. The restriction in paragraph 6 does not apply if—
- (a) the investment is made by an investment manager appointed under regulation 6, and
 - (b) the single holding is in units or other shares of the investments subject to the trusts of any one unit trust scheme.
16. The restrictions in paragraphs 6, 9 and 11 do not apply—
- (a) to any investment falling within paragraph 1 of Part I (National Savings) or paragraph 1 or 2 of Part II (interest bearing securities, loans etc.) of Schedule 1 to the Trustee Investments Act 1961, or
 - (b) to a deposit with a relevant institution.

PART III

INTERPRETATION OF PARTS I AND II

17. In this Schedule—
- “Collective investment scheme” has the meaning given in section 75 of the Financial Services Act 1986(a);
- “Companies” includes companies established under the law of any territory outside the United Kingdom;
- “Government loan” means a loan—
- (a) to Her Majesty’s Government in the United Kingdom, or
 - (b) to the Government of the Isle of Man;
- “Listed securities” means securities quoted on a recognised stock exchange;
- “Loan” does not include—
- (a) investing money in registered securities to which section 1 of the Stock Transfer Act 1963(b) applies (transfer by stock transfer forms) or in listed securities, or
 - (b) depositing money with a relevant institution;
- and “lent” must be understood in that way.
- “Open-ended investment company” means an open-ended investment company as defined in section 75(8) of the Financial Services Act 1986 which is an undertaking for collective investment schemes to which the Council Directive No. 85/611/EEC co-ordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities(c), as amended, applies;
- “Single holding” means investments—
- (a) in securities of, or in loans to or deposits with, any one body,
 - (b) in units or other shares of the investments subject to the trust of any one unit trust scheme, or
 - (c) in transactions involving any one piece of land or other property;
- “Unlisted securities” means securities which are not quoted on a recognised stock exchange.

(a) 1986 c. 60

(b) 1963 c. 18

(c) O.J. No. L375, 31.12.85, p. 3-18 as amended by Council Directive 88/220/EEC (O.J. No. L100, 19.04.88, p. 31-33).

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the management and investment of the superannuation funds managed by the Northern Ireland Local Government Officers' Superannuation Committee. The provisions were formerly dealt with in the Local Government (Superannuation) Regulations (Northern Ireland) 1992 ("the 1992 Regulations") at regulations P2 and P3. The 1992 Regulations have been consolidated in the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. No. 177).

The principal amendments are—

- (a) the inclusion, as investments, of insurance contracts with persons for whom making an insurance contract is business within class III in Schedule 1 to the Insurance Companies Act 1982 (linked long term business) (regulation 3(4));
- (b) the inclusion of sub-underwriting as an investment with a limit on such investment in any single sub-underwriting contract of one per cent of the total value of the fund (regulation 3(9));
- (c) a requirement for the Committee to prepare, maintain and publish a written statement of the principles governing its policy on investments of pension fund monies. The statement must cover the same matters as those the trustees of a trust scheme must include in the statement that they are required to prepare under section 35 of the Pensions (Northern Ireland) Order 1995. The statement must also include the Committee's policy on the extent to which social, environmental and ethical considerations are taken into account (regulation 10); and
- (d) the inclusion in the limit of 25 per cent of the total value of the fund of investments in open-ended investment company schemes (regulation 12 and the Schedule).

The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 1996 (S.R. 1996/584), which impose restrictions on the amount of the resources of an occupational pension scheme which may be invested in employer-related investments, may further restrict or limit investments of fund monies. Those Regulations are made under powers conferred by, amongst others, Article 40 of the Pensions (Northern Ireland) Order 1995 (restrictions on employer-related investments).

The Financial Services (Regulated Schemes) Regulations 1991 referred to in regulation 3(6) may be purchased from the Financial Services Authority (FSA), 25, The North Colonnade, Canary Wharf, London E14 5HS.

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