

**2006 No. 20**

**PENSIONS**

**The Personal Pension Schemes (Appropriate Schemes)  
(Amendment) Regulations (Northern Ireland) 2006**

*Made* - - - - - *31st January 2006*

*Coming into operation* - - - - - *6th April 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(5)(a) and 177(4) of the Pension Schemes (Northern Ireland) Act 1993(a) and now vested in it(b).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Personal Pension Schemes (Appropriate Schemes) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 6th April 2006.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations**

2.—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997(d) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “building society” there shall be inserted the following definitions—

““deposit-taker” has the meaning given to it by Article 49(8A) of the Pensions (Northern Ireland) Order 1995(e);

“EEA State” means a State, other than the United Kingdom, which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being;”;

(b) after the definition of “Friendly Society” there shall be inserted the following definitions—

““home state regulator” has the meaning given to it by Part I of Schedule 3 to the 2000 Act(f) (interpretation);

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(a) 1993 c. 49

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1954 c. 33 (N.I.)

(d) S.R. 1997 No. 139; relevant amending regulations are S.R. 2001 No. 118 and S.R. 2003 No. 256

(e) S.I. 1995/3213 (N.I. 22); paragraphs (8A) and (8B) were inserted in Article 49 by Article 154(5) of S.I. 2001/3649

(f) The definition of “the 2000 Act” was inserted by regulation 12(2) of S.R. 2003 No. 256

- “open-ended investment company”—
- (a) has the meaning given to it by section 236 of the 2000 Act, and
  - (b) includes UCITS situated in an EEA State which has been authorised by the home state regulator of that EEA State and is a recognised scheme;”;
- (c) after the definition of “pensionable age” there shall be added the following definitions—
- ““recognised scheme” means a scheme recognised under section 264, 270 or 272 of the 2000 Act (criteria that an overseas scheme must meet in order for it to be a recognised scheme);
  - “UCITS” means an undertaking for collective investment of transferable securities within the meaning of Article 1 of Council Directive 85/611 as amended by European Parliament and Council Directive 2001/108/EC;
  - “unit trust scheme” has the meaning given to it by section 237 of the 2000 Act (definition of various terms referred to in Chapter I of Part XVII of that Act).”.
- (3) In regulation 2 (forms of schemes which may be appropriate schemes)—
- (a) in paragraph (1)(a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
    - “(a) it is a tax registered scheme, and”;
  - (b) in paragraph (2) after sub-paragraph (c) there shall be added the following sub-paragraph—
    - “(d) an arrangement for the investment of contributions in an open-ended investment company.”;
  - (c) after paragraph (2) there shall be inserted the following paragraphs—
    - “(2A) The rules or provisions of the personal pension scheme may provide for the scheme to hold any pension arrangement in addition to the description of pension arrangement referred to in paragraph (1)(b) if the condition specified in paragraph (2B) is satisfied.
    - (2B) The condition referred to in paragraph (2A) is that the rules or provisions of the scheme must not allow a member’s protected rights to be held in a pension arrangement which falls outside the description of pension arrangement referred to in paragraph (1)(b).”, and
  - (d) for paragraph (4)(b) there shall be substituted the following paragraphs—
    - “(4) In this regulation—
    - (a) “protected rights” has the meaning given to that expression in section 6(c) (protected rights and money purchase benefits);
    - (b) “self-invested personal pension scheme” means a personal pension scheme, the arrangements made in accordance with which by a member—
      - (i) are arrangements under which the member is able to direct the manner in which some or all of the contributions paid to the scheme are to be invested by the scheme administrators, and
      - (ii) are not arrangements falling within paragraph (5) or (6);
    - (c) “tax registered scheme” means a scheme which from 6th April 2006 is, or is treated as, registered under section 153 of the Finance Act 2004(d).
- (5) Arrangements which fall within this paragraph are arrangements under which—

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(a) Paragraph (1) was substituted by regulation 4(a) of S.R. 2001 No. 118  
 (b) Paragraph (4) was added by regulation 4(b) of S.R. 2001 No. 118  
 (c) Section 6 was amended by paragraph 18 of Schedule 3 to the Pensions (Northern Ireland) Order 1995, paragraph 39 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), Article 29(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and paragraph 23(2) of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29)  
 (d) 2004 c.12

- (a) all the investments held for the purposes of the scheme comprise contracts or policies of insurance, units in unit trust schemes or shares in an open-ended investment company, and
  - (b) in managing those investments, the scheme administrators do not consult with any member of the scheme except to the extent necessary by virtue of the investment offering choices that are available to any person (whether or not a member of the scheme).
- (6) Arrangements which fall within this paragraph are arrangements under which—
- (a) all contributions paid are, after the deduction of expenses, invested in deposits with deposit-takers, and
  - (b) the payment of interest on those deposits comprises the only income of the scheme from its investments.”.
- (4) In regulation 3 (persons who and bodies which may establish schemes)—
- (a) in paragraph (1) after sub-paragraph (b) there shall be added the following sub-paragraph—
    - “(c) regulation 2(2)(d) can be an appropriate scheme only if it is established by an authorised corporate director of an open-ended investment company.”, and
  - (b) after paragraph (5)(a) there shall be added the following paragraph—
    - “(6) In paragraph (1)(c), “an authorised corporate director” has the same meaning as in the Open-ended Investment Companies (Tax) Regulations 1997**(b)**.”.

Sealed with the Official Seal of the Department for Social Development on 31st January 2006.



*John O'Neill*

A senior officer of the Department for Social Development

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997 (“the principal Regulations”).

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2(2) inserts new definitions into the principal Regulations.

Regulation 2(3)(a) amends regulation 2(1)(a) of the principal Regulations to provide for the tax registration of schemes as a consequence of the Finance Act 2004 (c. 12).

Regulation 2(3)(b) inserts sub-paragraph (d) in regulation 2(2) of the principal Regulations to add to the forms of scheme which qualify as an appropriate personal pension scheme.

Regulation 2(3)(c) inserts paragraphs (2A) and (2B) into regulation 2 of the principal Regulations. These paragraphs specify that the rules of a scheme may provide for the scheme to hold any pension arrangement in addition to the pension arrangement described in regulation 2(1)(b) of the principal Regulations; it also provides that the rules of the scheme must not allow a member’s protected rights to be held in a pension arrangement which falls outside regulation 2(1)(b) of those Regulations.

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(a) Paragraph (5) was added by regulation 12(4)(d) of S.R. 2003 No. 256

(b) S.I. 1997/1154, relevant amending instruments are S.I. 2001/3629, S.I. 2003/1831 and S.I. 2004/2310

Regulation 2(3)(d) amends regulation 2(4) of the principal Regulations to include definitions of terms used in regulation 2 as amended. In particular, it provides a definition of “self-invested personal pension scheme” necessary because of the lapse of the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117) on 6th April 2006, in consequence of the repeal of section 638A of the Income and Corporation Taxes Act 1988 (c. 1) under which they were made. Section 638A is repealed by Part 3 of Schedule 42 to the Finance Act 2004 with effect from 6th April 2006.

Regulation 2(4) amends regulation 3 of the principal Regulations to provide that for an arrangement under regulation 2(2)(d) of those Regulations to qualify as an appropriate personal pension scheme it must be established by an authorised corporate director of an open-ended investment company.

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Stationery Office Limited  
under the authority and  
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Tullo, Controller of  
Her Majesty's Stationery  
Office being the Government  
Printer for Northern Ireland and  
the Officer appointed to print the  
Acts of the Northern Ireland Assembly

Dd. N2480. C2. 2/06. Gp. 130. 14567.

£3.00