

**1988 No. 724**

**FINANCIAL SERVICES**

**The Financial Services Act 1986 (Occupational Pension Schemes) (No.2) Order 1988**

<i>Made</i> - - - -	<i>13th April 1988</i>
<i>Laid before Parliament</i>	<i>13th April 1988</i>
<i>Coming into force</i> -	<i>29th April 1988</i>

The Secretary of State, in exercise of his powers under section 191(3) of the Financial Services Act 1986(a) and of all other powers enabling him in that behalf, hereby makes the following Order:-

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Financial Services Act 1986 (Occupational Pension Schemes) (No.2) Order 1988 and shall come into force on 29th April 1988.

(2) In this Order-

“the Act” means the Financial Services Act 1986;

“relevant member” means an employee or former employee by whom or in respect of whom contributions to a relevant scheme are being, or have been, made and to or in respect of whom benefits are or may become payable under the scheme; and

“relevant scheme” means a scheme of a kind described in article 3 of this Order.

**Certain persons not to be treated as carrying on investment business by virtue of section 191 of the Act**

2.—(1) No person of a kind described in paragraph (2) of this article shall be treated as carrying on investment business by virtue of section 191 of the Act where the assets he manages are held for the purposes of a relevant scheme.

(2) This paragraph applies to-

- (a) any trustee of a relevant scheme who is a beneficiary or potential beneficiary under the scheme; and
- (b) any other trustee of a relevant scheme who takes no day to day decisions relating to the management of assets of the scheme which are investments.

**Relevant Schemes**

3.—(1) For the purposes of this Order a scheme is a relevant scheme if it is an occupational pension scheme of a kind described in paragraph (2) or (3) below.

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(a) 1986 c.60.

- (2) A scheme falls within this paragraph if-
- (a) it is constituted under an irrevocable trust;
  - (b) it has no more than twelve relevant members;
  - (c) all relevant members, other than any relevant member who is unfit to or incapable of acting as a trustee of the scheme, are trustees of it; and
  - (d) all decisions, or all day to day decisions, relating to the management of assets of the scheme which are investments are required to be taken by all, or a majority of, relevant members who are trustees of the scheme or by a person of the kind described in section 191(2)(a), (b) or (c) of the Act acting either alone or jointly with all, or a majority of, relevant members who are trustees.
- (3) A scheme falls within this paragraph if-
- (a) it has no more than 50 members;
  - (b) the contributions made by or in respect of each member of the scheme are used in the acquisition of a contract of insurance on the life of that member or of a contract to pay an annuity on that life;
  - (c) the only decision of a kind referred to in section 191(2) of the Act is the selection of such contracts; and
  - (d) each member is given the opportunity to select the contract which contributions made by or in respect of him will be used to acquire.

#### **Revocation**

4. The Financial Services Act 1986 (Occupational Pension Schemes) Order 1988(a) is hereby revoked.

13th April 1988

*Francis Maude*  
Parliamentary Under-Secretary of State,  
Department of Trade and Industry

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#### **EXPLANATORY NOTE**

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

This Order revokes and consolidates with certain amendments the Financial Services Act 1986 (Occupational Pension Schemes) Order 1988. The Order directs that no trustee of an occupational pension scheme of a kind described in article 3 is to be treated as carrying on investment business by virtue of section 191 of the Financial Services Act 1986 if either he is a beneficiary or potential beneficiary under the scheme in question or he takes no day to day decisions relating to the management of assets of the scheme which are investments other, in the case of a scheme of the kind described in article 3(3), than the selection of life insurance and annuity contracts. The Order also makes provision as to schemes where some of the members in respect of whom contributions have been made are no longer entitled to benefits under the scheme and schemes under which investment decisions are taken by a person of the kind described in section 191 of the Act acting jointly with all, or a majority of, relevant members.

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(a) S.I. 1988/41.