
STATUTORY INSTRUMENTS

1996 No. 1715

**The Occupational Pension Schemes
(Scheme Administration) Regulations 1996**

PART III

TRUSTEES

CHAPTER I

TRUSTEES: GENERAL

Ineligibility to act as actuary or auditor

7. For the purposes of section 27(3) of the 1995 Act (ineligibility of trustees and connected and associated persons to act as an auditor or actuary of the scheme: exceptions for persons of a prescribed class or description) the prescribed class or description is—

- (a) any person who is a director, partner or employee of a firm which provides, amongst other services, actuarial services and who would be ineligible under section 27(1) of the 1995 Act to be the actuary merely because another director, partner or employee of that firm is a trustee of the scheme;
- (b) any person—
 - (i) who is a director, partner or employee of a firm which provides, amongst other services, actuarial services; and
 - (ii) who is not a director of the company which is a trustee of the scheme,

and who would be ineligible under section 27(1) of the 1995 Act to be the actuary merely because he is an associate of the company which is the trustee of the scheme by virtue of section 435(4), (6) and (7) of the Insolvency Act 1986⁽¹⁾;

- (c) any person who would be ineligible under section 27(1) of the 1995 Act to act as the auditor or the actuary merely because he falls within the description of associate as specified in section 435(3) of the Insolvency Act 1986.

Meaning of trustee of a trust scheme

8. For the purposes of section 27(5) of the 1995 Act (references to sections 27 and 28 of the 1995 Act to a trustee of a trust scheme do not include a trustee, or a trustee of a scheme falling within a prescribed class or description) the prescribed class or description is any pensioner trustee.

(1) 1986 c. 45.

CHAPTER II
FUNCTIONS OF TRUSTEES

Exemption from the requirement to give notice of an occasion when a specified number of trustees must be present for a decision

9. For the purposes of section 32(2)(b) of the 1995 Act (notice of any occasion at which decisions may be taken by a majority to be given to each trustee unless the occasion falls within a prescribed class or description) the prescribed class or description is an occasion on which it is necessary as a matter of urgency to make a decision.

Manner of, and time for giving, notice when a specified number of trustees must be present for a decision

10. For the purposes of section 32(3) of the 1995 Act (notice to be given in a prescribed manner and no later than the beginning of a prescribed period) the prescribed manner and period are that the notice of the occasion must, unless the trustees agree otherwise,—

- (a) specify the date, time and place of the occasion; and
- (b) be sent to the last known address of each trustee no later than 10 business days before the occasion.

CHAPTER III
RECEIPTS, PAYMENTS AND RECORDS

Exemption from the requirement for money to be kept by the trustees

11.—(1) For the purposes of section 49(1) of the 1995 Act (trustees of any trust scheme must, except in any prescribed circumstances, keep money received in a separate account at an institution authorised under the Banking Act 1987) the prescribed circumstances are—

- (a) where the trustees have entered into an arrangement or contract with a person to the effect that the money is to be paid into a separate account held by that person; and
 - (i) it is a condition of that arrangement or contract that a record by that person shall be kept of the information referred to in paragraph (2) and such records should be retained for a period of at least 6 years; and
 - (ii) any interest earned on the account shall be credited to the scheme in respect of which the money is deposited;
 - (b) where the trustees have a separate account kept by them at any of the institutions specified in paragraphs (1) to (6) of Schedule 2 to the Banking Act 1987(2) and money received by them is to be held in that account.
- (2) The information referred to in paragraph (1)(a)(i) is the—
- (a) amount of money paid into the account, the date of payment and from whom it was received;
 - (b) amount of money paid out of the account, the date of withdrawal and to whom payment was made; and
 - (c) interest earned on the account of each scheme in respect of which money is deposited.

(2) 1987 c. 22.

Requirement for trustees to keep books and records

12.—(1) Trustees of any trust scheme shall keep—

- (a) records of their meetings (including meetings of any of their number) in accordance with regulation 13; and
- (b) books and records relating to any of the following transactions—
 - (i) any amount received in respect of any contribution payable in respect of an active member of the scheme;
 - (ii) the date on which a member joins the scheme;
 - (iii) payments of pensions and benefits;
 - (iv) payments made by or on behalf of the trustees to any person including a professional adviser and such records to include the name and address of the person to whom payment was made and the reason for that payment;
 - (v) any movement or transfer of assets from the trustees to any person including a professional adviser and such records to include the name and address of the person to whom the assets were moved or transferred and the reason for that transaction;
 - (vi) the receipt or payment of money or assets in respect of the transfer of members into or out of the scheme and such records to include, in the case of a member who has transferred into the scheme, the name of that member, the terms of the transfer, the name of the transferring scheme, the date of the transfer and date of receipt or payment of money or assets, and, in the case of a member who has transferred out of the scheme, the name of that member, the terms of the transfer, the name of the scheme transferred to, the date of the transfer, and the date of receipt or payment of money or assets;
 - (vii) in a case where an appropriate policy of insurance is taken out by virtue of section 32A of the Pension Schemes Act 1993 (discharge of protected rights on winding up: insurance policies)(3), the name of the insurance company, the name of members in respect of which the appropriate policy of insurance is taken out, the payment of money or assets and the date of such payments;
 - (viii) payments made to a member who leaves the scheme, other than on a transfer, and such records to include the name of that member, the date of leaving, the member's entitlement at that date, the method used for calculating any entitlement under the scheme and how that entitlement was discharged;
 - (ix) payments made to the employer; and
 - (x) other payments to, and withdrawals from, the scheme, including the name and address of the person the payment was made to or from whom it was received.

(2) This regulation shall not apply in the case of a trust scheme which falls within the descriptions referred to in regulation 3(1)(c), (f), (g) and (i).

Records of trustees' meetings

13.—(1) For the purposes of section 49(4) of the 1995 Act (books and records to be kept in a prescribed form and manner) the prescribed form and manner in the case of records of the meetings of trustees of any trust scheme, is that the record must be in writing and state—

- (a) the date, time and place of the meeting;
- (b) the names of all the trustees invited to the meeting;

(3) 1993 c. 48. Section 32A was inserted by section 146 of the Pensions Act 1995.

- (c) the names of the trustees who attended the meetings and those who did not attend;
- (d) the names of any professional advisers or any other person who attended the meeting;
- (e) any decisions made at the meeting; and
- (f) whether since the previous meeting there has been any occasion when a decision has been made by the trustees and if so the time, place and date of such a decision, and the names of the trustees who participated in the decision.

(2) This regulation shall not apply in the case of a trust scheme which falls within the description referred to in regulation 3(1)(c), (f), and (i).

Period for which books and records must be kept

14. The books and records referred to in regulations 12 and 13 shall be kept by the trustees for at least 6 years from the end of the scheme year to which they relate.

Employer to make payments of benefits into a separate account

15. An employer is required, in cases where payments of benefits to members of trust schemes are made by him, to make into a separate account kept by him at an institution authorised under the Banking Act 1987, any payment of benefit which has not been made to a member within 2 business days from the date of receipt by the employer.

Prescribed time in which an employer must make payments to trustees or managers

16. For the purposes of section 49(8)(b) of the 1995 Act (amount deducted from earnings to be paid to the trustees or managers of the scheme within a prescribed period) the prescribed period is 14 days commencing from the end of the month in which the amount is deducted from the earnings in question.