

1996 No. 1715

PENSIONS

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

<i>Made</i> - - - - -	<i>2nd July 1996</i>
<i>Laid before Parliament</i>	<i>5th July 1996</i>
<i>Coming into force</i>	<i>6th April 1997</i>

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The Secretary of State for Social Security in exercise of powers conferred on him by sections 27(3) and (5), 32(2) and (3), 47(3), (5), (6) and (9), 49(1), (2), (4), (5) and (8), 87(1), (2) and (3), 88(1), 124(1) and 174(2) and (3) of the Pensions Act 1995(a), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of Part I of that Act by virtue of which they are made(b), hereby makes the following regulations:

PART I
INTRODUCTION**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Scheme Administration) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations—

“the 1995 Act” means the Pensions Act 1995;

▶“the 2000 Act” means the Pensions Act 2004; ◀

“the Taxes Act” means the Income and Corporation Taxes Act 1988(c);

Defn of “the 2000 Act” inserted by para. 4(2) of Sch. 3 to S.I. 2005/3377.

(a) 1995 c. 26. Section 124(1) is cited because of the meaning ascribed to “prescribed” and “regulations”.

(b) See section 120(2)(c) of the Pensions Act 1995. This provides that the requirement to consult does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of Part I of the Pensions Act 1995 by virtue of which they are made.

(c) 1988 c. 1.

▶¹◀

“business days” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(a);

▶²“insurance policy” means a contract of a kind referred to in Article 2 of the Life Directive, but excluding a contract of a kind referred to in Article 2(2)(c) or (d) of that Directive;

“the Life Directive” means Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance(b);◀

▶³“money purchase benefits” has the same meaning as in section 181(1) of the Pension Schemes Act 1993(c);

“money purchase scheme” means a pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits;◀

▶¹◀

“public service pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993;

▶²“qualifying insurance policy” means an insurance policy issued by an insurer which is—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2002(d) (permission to carry on regulated activities) to effect or carry out contracts of long term insurance; or
- (b) an undertaking established in an EEA State (as defined in paragraph 8 of Schedule 3 to the Financial Services and Markets Act 2000) other than the United Kingdom, which is authorised by the competent authorities of that State to carry on the business of direct insurance for the class of assurance as listed in Annex 1 to the Life Directive in which the insurance policy falls;◀

▶⁴“registered scheme” means a scheme which, on or after 6th April 2006, is registered in accordance with section 153 of the Finance Act 2004(e) (registration of pension schemes)◀

▶⁴“relevant benefits” has the meaning given in section 393B of the Income Tax (Earnings and Pensions) Act 2003(f) (relevant benefits);◀

▶¹◀

“relevant statutory scheme” has the same meaning as in section 611A of the Taxes Act(g);

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such date as the trustees or manager select; or
- (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—
 - (i) the commencement or termination of the scheme, or
 - (ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence;

▶²“specified qualifying insurance policy” means a qualifying insurance policy which is a contract falling within paragraph I or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(h) (contracts of insurance);◀

▶¹◀

¹Defns. of “approved scheme”, “pensioner Trustee”, “relevant earmarked scheme” & “small self-administered scheme” deleted in reg. 1(2) by reg. 4(2)(a) of S.I. 2005/2426 as from 6.4.06.

²Defns. of “insurance policy”, “qualifying insurance policy” and “specified qualifying insurance policy” added in reg. 1(2) by reg. 4(2)(a)-(c) of S.I. 2006/778 as from 6.4.06 after coming into force of S.I. 205/2426.

³Defn. of “money purchase benefits” added and “money purchase scheme” amended by reg. 11(2)(a) of S.I. 1997/786 as from 6.4.97.

⁴Defn. of “registered scheme” inserted and “relevant benefits” substituted by reg. 4(2)(b) and (c) of S.I. 2005/2426 as from 6.4.06.

(a) 1971 c. 80.

(b) OJ No. L345, 19.12.2002 p.1.

(c) 1993 c. 48.

(d) 2000 c. 8.

(e) 2004 c. 12.

(f) Section 23 is substituted by section 36(1) and (3) of the Pensions Act 2004.

(g) Section 611A was inserted by paragraph 15 of Schedule 6 to the Finance Act 1989.

(h) S.I. 2001/544.

Regs. 1-3

¹Defn. of “wholly insured scheme” substituted by reg. 4(2)(d) of S.I. 2006/778 as from 6.4.06 after coming into force of S.I. 2005/2426.
²Para. (2A) inserted in reg. 1(2) by reg. 4(2)(e) of S.I. 2006/778 as from 6.4.06 after coming into force of S.I. 2005/2426.

“unfunded occupational pension scheme” means an occupational pension scheme under which there is no requirement to set aside in advance resources related to the intended rate or amount of benefits; and

▶¹“wholly insured scheme” means a trust scheme, other than a stakeholder pension scheme within the meaning of section 1 of the Welfare Reform and Pensions Act 1999(a), (meaning of “stakeholder pension scheme”), which has no investments other than specified qualifying insurance policies.◀

▶²(2A) For the purposes of the definition of “wholly insured scheme”, “investments” shall not include—

- (a) cash held on deposit by the trustees or managers pending payment to the insurer or to members of the scheme;
- (b) cash held on deposit by the trustees or managers to meet accrued liabilities or administrative expenses; or
- (c) any investments arising from voluntary contributions.◀

(3) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation is to the regulation bearing that number in these Regulations;
- (b) in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

PART II

ADVISERS

Appointment of professional advisers by trustees or managers

2. For the purposes of section 47(3) of the 1995 Act (legal advisers, fund managers, and persons exercising prescribed functions in relation to the scheme to be appointed by the trustees or managers) the prescribed functions are—

- (a) the examination of, and the expression of an opinion on, the financial statements and accounts of the scheme and any other matter relating to the audit of the scheme;
- (b) the provision of advice on financial questions relating to the funding of, and assets of, the scheme and on questions in respect of probabilities relating to morality and other contingencies, and any other matter relating to the actuarial affairs of the scheme;
- (c) the custody of cash, securities and any other documents of title to scheme assets.

Exemptions from the professional advisers requirements

3.—(1) Section 47(1)(a) of the 1995 Act (for every occupational pension scheme there shall be an individual, or a firm, appointed by the trustees or managers as auditor) does not apply to—

- ▶³(a) a scheme which is—
 - (i) provided for, or by, or under an enactment (including a local Act) ▶⁴and◀;
 - (ii) guaranteed by a Minister of the crown or other public authority.◀
- (b) ▶³◀
- ▶⁵(c) an occupational pension scheme which provides relevant benefits and which on or after 6th April 2006 is not a registered scheme;◀
 - (d) ▶³◀
 - (e) unfunded occupational pension scheme;
 - (f) occupational pension schemes with less than 2 members;
 - (g) ▶³◀

³Reg. 3(1)(a) substituted and sub-paras. (b)(d) & (g) omitted by reg. 3(3)(a) & (g) of S.I. 2005/2426 as from 22.9.05.

⁴Word inserted in reg. 3(1)(a)(i) by reg. 5 of S.I. 2011/672 as from 6.4.11.

⁵In reg. 3, para. (1)(c) substituted by reg. 4(3)(a) of S.I. 2005/2426 as from 6.4.06.

(a) 1999 c. 30. Section 1 was amended by section 285 of, and paragraphs 71 and 72 of Schedule 12 to, the Pensions Act 2004.

- ▶¹(h) a scheme—
 - (i) with fewer than 12 members where all the members are trustees of the scheme and either—
 - (aa) the provisions of the scheme provide that all decisions which fall to be made by the trustees are made by unanimous agreement by the trustees who are members of the scheme; or
 - (bb) the scheme has a trustee who is independent in relation to the scheme for the purposes of section 23 of the 1995 Act^(a) (power to appoint independent trustees and is registered in the register maintained by the authority in accordance with regulations made under subsection (4) of that section; or
 - (ii) with fewer than 12 members where all the members are directors of a company which is the sole trustee of the scheme, and either—
 - (aa) the provisions of the scheme provide that any decisions made by the company in its capacity as trustee are made by the unanimous agreement of all the directors who are members of the scheme; or
 - (bb) one of the directors of the company is independent in relation to the scheme for the purposes of section 23 of the 1995 Act, and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section;◀
- (hh) ▶¹◀
 - (i) occupational pension schemes with a superannuation fund such as is mentioned in section 615(6) of the Taxes Act;
 - (j) ▶²◀
 - (k) ▶³◀
 - (l) ▶³◀
- ▶³(m) the AWE Pension Scheme established by a deed made on 29th March 1993;◀ and
- (n) ▶³◀
- ▶³(o) the Babcock Naval Services Pension Scheme, established by a deed made on 29th August 2002.◀

¹Reg. 3(h) substituted & 3(hh) omitted by reg. 4(3)(b) & (c) of S.I. 2005/2426 as from 6.4.06.

²Reg. 3(1)(j) and words in para. (2)(b)(i) omitted by reg. 3(2)(a) of S.I. 2010/499 as from 6.4.10.

³Reg. 3(1)(k), (l) & (n) omitted; (m) substituted & (o) inserted by reg. 3(3)(e)-(g) of S.I. 2005/2426 as from 22.9.05.

(2) Section 47(1)(b) of the 1995 Act (for every occupational pension scheme there shall be an individual appointed by the trustees or managers as actuary) does not apply to—

- (a) money purchase schemes;
- ▶⁴(b) schemes mentioned in—
 - (i) paragraph (1)(a), ▶⁵(e) to◀ (f), ▶²◀, (m) and (o); or
 - (ii) paragraph (1)(c) or (i) where these schemes have fewer than 100 members.◀

⁴Reg. 3(2)(b), and words in 3(3)(c) & 3(4) substituted by reg. 3(4) & (5) of S.I. 2005/2426 as from 22.9.05.

(3) Section 47(2) of the 1995 Act (for every occupational pension scheme the assets of which consist of or include investments ▶⁶◀ there shall be an individual or a firm appointed by or on behalf of the trustees or managers as fund manager) does not apply to—

- ▶⁶(a) relevant schemes of a kind mentioned in paragraph (4) of regulation 4 of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001^(b) (Managing investments: occupational pension schemes);◀
- (b) wholly insured schemes; and
- (c) schemes mentioned in ▶⁴paragraph (1)(a) to (f) and (i)◀.

⁵Words added to reg. 3(2)(b)(i) by reg. 4(3) of S.I. 2006/778 as from 6.4.06 after coming into force date of S.I. 2005/2426.

⁶Words in reg. 3(3) revoked and sub-para. (3)(a) substituted by reg. 528 of S.I. 2001/3649 as from 1.12.01.

(4) Section 47(3) of the 1995 Act (legal advisers, fund managers, and persons exercising prescribed functions in relation to the scheme to be appointed by the trustees or managers) does not apply to schemes mentioned in ▶⁴paragraph (1)(a) to (f) & (i)◀

(a) Section 23 is substituted by section 36(1) and (3) of the Pensions Act 2004.

(b) S.I. 2001/1177.

Regs. 3-4

¹Paras. 5, 6, and 7 inserted into reg. 3 by reg. 2 of S.I. 1998/1494 as from 22.7.98.

►¹(5) Subject to paragraph (6), where the trustees or managers of a scheme appoint a custodian on terms—

- (a) which allow the custodian to use the services of an appointed person; and
- (b) which—
 - (i) in case of a custodian appointed before the relevant date, set out in writing, or
 - (ii) in the case of a custodian appointed on or after the relevant date, specify that, before taking up the appointment the custodian must disclose in writing to the trustees or managers, whether, and if so, the extent to which the custodian accepts liability in respect of functions exercised or exercisable on his behalf by an appointed person; and
- (c) which require that, immediately upon any subsequent change in the extent of the liability accepted by the custodian in respect of functions exercised or exercisable on his behalf by an appointed person, the custodian must disclose in writing to the trustees or managers whether and, if so, the extent to which his liability has changed,

section 47(3) of the 1995 Act shall not apply with respect to any reliance placed on the skill or judgement of the appointed person in the exercise of any of the functions given to the appointed person.

(6) In a case where—

- (a) sub-paragraph (b)(ii) of paragraph (5) applies; or
- (b) there has been a change of a kind mentioned in sub-paragraph (c) of that paragraph,

section 47(3) of the 1995 Act shall not be disapplied by virtue of that paragraph unless the custodian has made the disclosure required by that sub-paragraph (b)(ii) or, as the case may be, that sub-paragraph (c).

(7) In paragraph (5) and (6)—

“appointed person” means any person appointed by a custodian, or by any other person empowered by the terms of his own appointment to appoint another person, to exercise any of the functions given to the custodian;

“custodian” means a person appointed by the trustees or managers to exercise any of the functions set out in regulation 2(c) of these Regulations (custody of cash, securities, etc); and

“relevant date” means 22nd July 1998.◀

Qualifications and experience or approval required for appointment as the auditor or actuary

4.—(1) For the purposes of section 47(5)(b) of the 1995 Act the qualifications and experience or approval required for appointment as—

- (a) the auditor, subject to paragraph (2), are—
 - (i) those specified in section 25 of the Companies Act 1989(a); or
 - (ii) approval by the Secretary of State;
- (b) the actuary are—
 - (i) Fellowship of the Institute of Actuaries;
 - (ii) Fellowship of the Faculty of Actuaries; or
 - (iii) approval by the Secretary of State.

(2) A person shall not be appointed as the auditor where—

- (a) he is a member of the scheme(b);

(a) 1989 c. 40.

(b) See section 27 of the Pensions Act 1995 which provides that a trustee of a trust scheme, and any person connected with, or associate of such a trustee, is ineligible to act as auditor. See also regulation 7 of these Regulations.

- (b) he is employed under a contract of service by the trustees or managers of the scheme;
- (c) he is an employer in relation to the scheme; or
- (d) ¹subject to paragraph (3), [◀] he is, by virtue of section 27 of the Companies Act 1989, ineligible to audit the accounts of a company which is an employer in relation to the scheme.

¹Words in reg. 4(2)(d) and para. (3) inserted by reg. 2(2) of S.I. 2014/540 as from 6.4.14.

[▶]¹(3) Paragraph (2)(d) does not apply in relation to the accounts and auditor's statement for a relevant scheme for a scheme year—

- (a) in which, on the first day of that scheme year, the scheme has at least 500 participating employers; or
- (b) which immediately precedes a scheme year in which sub-paragraph (a) is satisfied

(4) In paragraph (3), “relevant scheme” means a trust scheme which applies to earners in employment under different employers.” [◀]

Manner and terms of appointment and removal of professional advisers

5.—(1) An appointment of a professional adviser shall be made in writing (“the notice of appointment”) and shall specify—

- (a) the date the appointment is due to take effect;
- (b) to whom the professional adviser is to report; and
- (c) from whom the professional adviser is to take instructions.

(2) A person appointed as a professional adviser shall—

- (a) acknowledge in writing receipt of the notice of appointment within 1 month of receipt; and

[▶]²(b)

- [▶]³(i) in the case of a fund manager, or a person carrying out functions referred to in regulation 2(c), who is subject to rules made under section 138 of the Financial Services and Markets Act 2000 (General rule making power) which impose requirements in relation to conflicts of interest, confirm in writing that he will notify the trustees or managers of any conflicts of interest to which he is or may be subject in relation to the scheme, in accordance with those requirements, and—[◀]

²Reg. 5(2)(b) substituted by reg. 5(a) of S.I. 1997/819 as from 6.4.97.

³Sub-para (2)(b)(i) of reg. 5 substituted by reg. 529 of S.I. 2001/3649 as from 1.12.01.

- (ii) in the case of any other professional adviser, confirm in writing that he will notify the trustees or managers of any conflict of interest to which he is subject in relation to the scheme immediately he becomes aware of its existence. [◀]

(3) The resignation of a professional adviser shall be made by serving on the trustees or managers a notice of resignation in writing.

(4) The notice of resignation referred to in paragraph (3) shall, in the case of the auditor or actuary, contain either—

- (a) a statement by the auditor or actuary specifying any circumstances connected with the resignation which, in his opinion, significantly affect the interests of the members of prospective members of, or beneficiaries under, the scheme; or
- (b) a declaration by the auditor or actuary that he knows of no such circumstances as are referred to in sub-paragraph (a).

(5) The resignation shall be effective from the date (if any) specified in the notice by the professional adviser as the date from which he wishes his resignation to be effective, or, if no date is specified, the date on which the trustees or managers receive the notice.

(6) Trustees or managers wishing to remove a professional adviser shall do so by serving on him a notice in writing stating the date with effect from which his appointment terminates.

Regs. 5-6

(7) Where the auditor or actuary is removed in accordance with paragraph (6), he shall, within 14 days of receipt of the removal notice referred to in that paragraph, provide the trustees or managers with either—

- (a) a statement specifying any circumstances connected with the removal which, in his opinion, significantly affect the interests of the members or prospective members of, or beneficiaries under, the scheme; or
- (b) a declaration that he knows of no such circumstances as are referred to in sub-paragraph (a).

(8) Where the auditor or actuary—

- (a) is removed by the trustees or managers,
- (b) resigns, or
- (c) dies,

the trustees or managers shall appoint a replacement auditor or actuary (as the case may be) within 3 months from the date of the removal, resignation or death.

(9) In a case where paragraph (8) applies, section 47(1)(a) (where the replacement is to be an auditor) or (b) (where the replacement is to be an actuary) of the 1995 Act shall not apply pending the appointment of the replacement.

¹Reg. 5(10) substituted by reg. 10(2) of S.I. 1999/3198 as from 30.12.99.

►¹(10) Where a statement or declaration is made in accordance with paragraph (4) or (7), the trustees or managers shall—

- (a) furnish the remaining auditor or actuary to the scheme with a copy of the statement or declaration no later than 14 days after the trustees or managers receive it; and
- (b) furnish the succeeding auditor or actuary with a copy of the statement or declaration—
 - (i) no later than 14 days after the date on which the trustees or managers receive it; or
 - (ii) no later than the date of the succeeding auditor's or actuary's appointment, whichever is the later.◄

(11) This regulation shall not apply in the case of an appointment of a person as a professional adviser to a scheme which falls within the description referred to in ►²regulation 3(1)(c) to (f) and (i)◄.

²Words in regs. 5(11) and 6(4) substituted by reg. 3(6) of S.I. 2005/2426 as from 22.9.05.

Duty to disclose information

6.—(1) It shall be the duty of any person—

- (a) who is the employer or has been the employer in relation to an occupational pension scheme and any person who acts as auditor or actuary to such a person, to disclose on request to the trustees or managers such information as is reasonably required for the performance of the duties of trustees or managers or professional advisers;
- (b) who is the employer in relation to an occupational pension scheme within 1 month of the occurrence, to disclose to the trustees or managers the occurrence of any event relating to the employer which there is reasonable cause to believe will be of material significance in the exercise by the trustees or managers or professional advisers of any of their functions.

(2) The information referred to in paragraph (1)(a), in a case where the employer makes provision for the administration of the scheme, includes information in respect of who administers the scheme and the terms on which administrative services are provided.

(3) It shall be the duty of the trustees or managers of an occupational pension scheme—

- (a) to disclose to the professional advisers such information as may reasonably be required for the performance of their duties; and

- (b) to make available to the professional advisers such of the scheme's books, accounts and records, including any books and records which the trustees are required to keep under section 49(2) of the 1995 Act (receipts, payments and records), as may reasonably be required for the performance of their duties.

(4) This regulation shall not apply in relation to an occupational pension scheme which falls within the description referred to in ►¹regulation 3(1)(c) to (f) and (i)◄.

¹Words in regs. 5(11) and 6(4) substituted by reg. 3(6) of S.I. 2005/2426 as from 22.9.05.

SI 1996/1715

**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(a);

- (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(2) of the Insolvency Act 1986.
- (d) in the case where a person is an associate of any person with whom he is in partnership, the husband or wife or a relative of any individual with whom he is in partnership. ◀

Words amended in para. 7(c) and para 7(d) added by reg. 5(b) of S.I. 1997/819 with effect from 6.4.97.

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 ►a trustee who is a trustee in relation to a scheme to which regulation 3(1)(h)(i)(bb) or (ii)(bb) applies (exemptions from the professional advisers requirements). ◀

Words substituted in reg. 8 by reg. 4(4) of S.I. 2005/2426 as from 6.4.06.

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

(a) 1986 c. 45.

Regs. 10-11

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 ►with a deposit taker◄ 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 ►an◄ account held by that person ►and separate from one held by or on behalf of the employer as employer◄; 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 ►an account—
 - (i) kept by them with any of the persons specified in paragraph (3);◄
 - (ii) separate from one held by or on behalf of the employer as employer; and
 - (iii) in which the money received by them is to be held.◄

(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.

►(3) The persons referred to in paragraph (1)(b)(i) are—

- (a) the Bank of England or the central bank of another EEA State;
- (b) the National Savings Bank; or
- (c) a municipal bank.

(4) In paragraph (3)—

- (a) “EEA State” means a State 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; and
- (b) “municipal bank” means a company within the meaning of the Companies Act 1985 (a)—
 - (i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979 or section 103(3) of the Banking Act 1987; and
 - (ii) is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits;
- (c) the definition of “municipal bank” above must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,

Words in reg. 11(1) substituted by reg. 530(2) of S.I. 2001/3649 as from 1.12.01.
Words substituted in reg. 11(1)(a) by reg. 10(3)(a) (i) & (ii) of S.I. 1999/3198 as from 30.12.99.

Words substituted in reg. 11(1)(b) by reg. 10(3)(b) of S.I. 1999/3198 as from 30.12.99.
Sub-para. (1)(b)(i) of reg. 11 substituted by reg. 530 of S.I. 2001/3649 as from 1.12.01.

Paras. 3 and 4 inserted into reg. 11 by reg. 530(4) of S.I. 2001/3649 as from 1.12.01.

(a) 1985 c. 6.

- (ii) any relevant order under that section, and
- (iii) Schedule 2 to that Act.◀

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) ▶¹◀
 - (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.

¹Reg. 12(1)(b)(vii) omitted by art. 13 of S.I. 2011/1246 as from 6.4.12.

(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) ▶²◀.

▶³(3) This regulation shall not apply in the case of a trust scheme which falls within the description referred to in—

- (a) regulation 3(1)(f);
- (b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members;
▶²◀
- (c) ▶²◀◀

²Words revoked in reg. 12(2), 12(3)(b) & reg. 12(3)(c) revoked by Sch. to S.I. 2006/467 as from 6.4.06.

³Reg. 12(3) inserted by reg. 3(7) of S.I. 2005/2426 as from 22.9.05.

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;

- (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.

¹Reg. 13(2) substituted by reg. 3(8) of S.I. 2005/2426 as from 22.9.05.

- ¹(2) This regulation shall not apply in the case of a trust scheme which falls within the descriptions referred to in
- (a) regulation 3(1)(f); or
 - (b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members◄.

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 payment of benefits into a separate account

²Reg. 15 renumbered reg. 15(1) and words substituted and sub-paras. (2)(a) and (b) inserted by reg. 531 of S.I. 2001/3649 as from 1.12.01.

15.►²—(1)◄ 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 ►²a deposit taker◄ any payment of benefit which has not been made to a member within 2 business days from the date of receipt by the employer.

- ²(2)(a) In this regulation “deposit taker” means—
- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of having qualified for authorisation under paragraph 12(1) of that Schedule) to accept deposits;
- (b) sub-paragraph (a) must be read with—
- (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act◄

³Reg. 16 substituted by reg. 48 of S.I. 2010/772 as from 1.10.12.

►³Prescribed time in which an employer must make payments to trustees or managers

16.—(1) Save as provided in paragraph (2), the prescribed period for the purposes of section 49(8) of the 1995 Act (amount deducted from earnings to be paid to the trustees or managers of the scheme within a prescribed period) ►⁴is—

- (a) where the contribution payable on behalf of an active member is paid to the trustees or managers of the scheme by means of an electronic communication, 22 days; or
- (b) in any other case, 19 days, commencing on the day following the last day of the month in which the amount is deducted from the earnings in question.◄

⁴Words in reg. 16(1) substituted by reg. 48(a) of S.I. 2012/215 as from 1.6.12.

⁵Reg. 16(2) & (3) substituted by reg. 2 of S.I. 2013/2556 as from 1.11.13.

►⁵(2) Where a person becomes an active member of a relevant scheme, in relation to contributions deducted in the relevant period, the prescribed period for the purposes of section 49(8) of the 1995 Act is the period commencing on the day on which the first deduction in the relevant period is made and ending—

- (a) where the contribution is paid to the trustees or managers of the scheme by means of electronic communication, on the 22nd day of the month following the last day of the relevant period; or

(b) in any other case, on the 19th day of the month following the last day of the relevant period.

(3) For the purposes of this regulation—

“the 2008” Act means the Pensions Act 2008;

“electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000;

“relevant period” means a period of three months commencing on the date from which active membership is effective; and

“relevant scheme” means—

(a) a scheme which is a qualifying scheme in relation to the person under section 16 of the 2008 Act; or

(b) where the person is enrolled in the scheme pursuant to section 9 of the 2008 Act, a scheme which is registered under chapter 2 of part 4 of the Finance Act 2004. ◀

►¹**Exemptions from the requirement to notify the Authority or the member of a late contribution payment**

¹Reg. 16A substituted by reg. 4(5) of S.I. 2005/2426 as from 6.4.06.

16A. Where—

(a) an amount corresponding to any contribution payable on behalf of an active member of an occupational pension scheme is deducted from that member’s earnings in respect of any employment; and

(b) is not paid to the trustees or managers of the scheme within the period of 19 days beginning on the first day of the month after which the deduction is made,

the trustees or managers do not need to give notice of that failure to the Authority or member where—

(c) the scheme is exempt from the requirement to secure the preparation, maintenance and revision of a payment schedule for the purposes of section 87(1)(a) of the 1995 Act (schedules of payments to money purchase schemes) by virtue of regulation 17; or

►²(d) the scheme is exempt from the requirement to prepare, review and if necessary revise a schedule of contributions under section 227 of the 2004 Act, by virtue of any of sub-paragraphs (a) to (i) and (k) to (m) of regulation 17(1) of the Occupational Pension Schemes (Scheme Funding) Regulations 2005. ◀◀

²Para. (d) of reg. 16A substituted in reg. 16A(d) by para. 14(2) of Sch. 3 to S.I. 2005/3377 as from 30.12.05.

PART IV

MONEY PURCHASE SCHEMES

►³**Exemption from requirement to secure a payment schedule**

³Reg. 17 substituted by reg. 3(10) of S.I. 2005/2426 as from 22.9.05.

17. For the purposes of section 87(1) of the 1995 Act (requirement for occupational pension schemes which are money purchase schemes to secure and maintain a payment schedule unless the scheme falls within a prescribed class or description) the prescribed class or description is a money purchase scheme which falls within the descriptions referred to in—

(a) Section 87 is amended by sections 319 and 320 of, and paragraphs 34, 64 of Schedule 12 and Schedule 13 to, the Pensions Act 2004.

Regs. 17-21

¹Words omitted in reg. 17(a) by reg. 4(6) of S.I. 2005/2426 as from 6.4.06.

- (a) regulation 3(1)(a), (d), (f), (h) ¹◀; or
(b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members.◀

Amounts to be shown in a payment schedule

18. For the purposes of section 87(2)(b) of the 1995 Act (payment schedule to show other amounts payable towards the scheme as may be prescribed) the prescribed amounts are amounts payable towards the scheme by the employer in respect of expenses likely to be incurred in the scheme year.

Requirements which a payment schedule must satisfy

19.—(1) For the purposes of section 87(3) of the 1995 Act (payment schedule for a scheme must satisfy prescribed requirements) the prescribed requirements are that—

- (a) the payment schedule shows amounts ²▶prescribed in regulation 18◀ payable in the scheme year ²▶and◀;
(b) subject to paragraph (2), the payment schedule contains separate entries for the rates and due dates of contributions (other than voluntary contributions) payable towards the scheme by or on behalf of—
(i) the employer, and in the case of a scheme in relation to which there is more than one employer, each employer;
(ii) the active members of the scheme.

(2) In the case where an insurance premium is payable, the payment schedule need not contain separate entries for identifying the contributions payable by or on behalf of the employer and the active members of the scheme in respect of that premium.

²Words substituted in reg. 19(1)(a) by reg. 10(4)(a) and (b) of S.I. 1999/3198 as from 30.12.99.

³Reg. 20 omitted by reg. 4(7) of S.I. 2005/2426 as from 6.4.06.

20. ▶³◀**Circumstances where notice of non-payment of any amount payable to a scheme need not be given**

⁴Paras. (1) & (3) of reg. 21 omitted by reg. 4(8)(a) of S.I. 2005/2426 as from 6.4.06.

21. ▶⁴◀

(2) In the case of a scheme in relation to which there is more than one employer, notice of non-payment in respect of an amount payable in accordance with the payment schedule need not be given to members where their pensionable service is not with the employer who has not paid any amount in accordance with that payment schedule.

(3) ▶⁴◀

⁵Para. (4) of reg. 21 substituted by reg. 4(4) of S.I. 2006/778 as from 6.4.06 after coming into force date of S.I. 2005/2426.

⁵(4) Where, under section 49(9)(b) of the 1995 Act (a) (other responsibilities of trustees, employers, etc), there is a requirement on the trustees or managers to give notice within a reasonable time of a failure to pay within a prescribed time an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member's earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount by the due date for the purposes of subsection (1) of section 88 of that Act, in a case to which that subsection would otherwise apply.◀

Signed by authority of the Secretary of State for Social Security.

Oliver Heald
Parliamentary Under-Secretary of State,
Department of Social Security

2nd July 1996

EXPLANATORY NOTE

(a) Section 49(9)(b) is substituted by section 269(1) of the Pensions Act 2004.

