
STATUTORY INSTRUMENTS

2001 No. 117

INCOME TAX

**The Personal Pension Schemes (Restriction on Discretion
to Approve) (Permitted Investments) Regulations 2001**

<i>Made</i>	- - - -	<i>23rd January 2001</i>
<i>Laid before the House of Commons</i>	- - - -	<i>24th January 2001</i>
<i>Coming into force</i>	- -	<i>6th April 2001</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 638A of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 and shall come into force on 6th April 2001.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“approved pension arrangement” means a pension scheme—

- (a) which is an “approved pension arrangement” as defined in section 660A(11)(2), and
- (b) under which all the benefits that may be provided are money purchase benefits;

“authorised unit trust scheme” means a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 is in force;

“the Board” means the Commissioners of Inland Revenue;

“commercial property” includes land;

“company” means any body corporate or unincorporated association, but does not include a partnership;

“depository interest” means the rights of the person mentioned in paragraph (b) of this definition under a certificate or other record (whether or not in the form of a document) which acknowledges—

- (a) that a person holds relevant investments or evidence of the right to them, and

(1) 1988 c. 1; section 638A was inserted by section 94 of the Finance Act 1998 (c. 36).

(2) Section 660A was inserted by paragraph 1 of Schedule 17 to the Finance Act 1995 (c. 4) and subsections (11) and (12) of that section were added by paragraph 26(4) of Schedule 13 to the Finance Act 2000 (c. 17).

- (b) that another person is entitled to rights in or in relation to those or identical relevant investments, including the right to receive such investments, or evidence of the right to them or the proceeds from such investments, from the person mentioned in paragraph (a);
- “deposit-taker” has the meaning given by section 481(2)(3);
- “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(4), as adjusted by the Protocol signed at Brussels on 17th March 1993(5);
- “EEA State” means a State, other than the United Kingdom, which is a Contracting Party to the EEA Agreement;
- “employee” includes the holder of an office;
- “employer” in relation to a scheme—
- (a) means an employer who, by virtue of the governing instrument, is entitled to pay contributions to the scheme, and
- (b) includes a person under whom an office is held;
- “feeder fund” means a feeder fund within the meaning (and complying with the requirements) of paragraph 2 of Part I of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997(6) (including a constituent part of an umbrella personal pension unit trust which is regarded as a feeder fund for the purposes of those Regulations);
- “governing instrument” in relation to a scheme means a trust deed, or other document by which the scheme is established, and any other document which contains provisions by which the administration of the scheme is governed;
- “insurance company” has the meaning given by section 431(2)(7);
- “investment company with variable capital” has the meaning given by regulation 3(2) of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996(8);
- “member” in relation to—
- (a) a personal pension scheme has the meaning given by section 630(1),
- (b) an approved pension arrangement falling within Chapter I of Part XIV of the Taxes Act, has the same meaning as “scheme member” in section 611(6)(a) and (b), and
- (c) an approved pension arrangement approved under Chapter III of Part XIV of the Taxes Act, means an individual referred to in section 618(2);
- “open-ended investment company” except in relation to the phrase “qualifying EEA open-ended investment company”—
- (a) has the meaning given by section 468(10)(9), and
- (b) also includes a UCITS situated in a member state other than the United Kingdom which has been authorised by the competent authorities of that member state and is a recognised scheme;

(3) Section 481(2) was amended by paragraph 8(3) of Schedule 5 and Part IV of Schedule 19 to the Finance Act 1990 (c. 29).

(4) O.J. No. L1, 3.1.94, p.3.

(5) O.J. No. L1, 3.1.94, p.572.

(6) S.I.1997/470.

(7) The definition of insurance company in section 431(2) was substituted by section 52(1) of the Finance Act 1995.

(8) S.I. 1996/2827.

(9) Subsections (10) to (18) of section 468 were added in relation to open-ended investment companies by regulation 10(4) of S.I. 1997/1154.

“personal pension scheme” has the meaning given by section 630(1)(10), and “scheme” shall be construed accordingly;

“personal pension unit trust” means a personal pension scheme which is an authorised unit trust scheme of a kind mentioned in Part I of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997;

“pooled fund” in relation to a personal pension scheme means a fund—

- (a) which is open to the public and is described in the documents relating to the scheme as being a fund open to all members,
- (b) in relation to the management of which the scheme administrator is not required to consult with any member of the scheme except to the extent that an investment offers choices that are available to any person (whether or not a member of the scheme), and
- (c) the value of which is applied to all members and not segregated among certain members or linked to certain members by reason of particular assets comprised in the fund;

“qualifying EEA investment company” means a company—

- (a) which is formed under the law of an EEA State and complies with the requirements specified in section 266(2) of the Companies Act 1985(11),
- (b) which may lawfully offer its shares to the public in an EEA State, and
- (c) in relation to which, on the basis of its last published annual accounts, the ratio between the company’s loan capital and the value of its ordinary shares is 50 per cent. or less;

“qualifying EEA open-ended investment company” means an open-ended investment company within the meaning given by section 75(8) of the Financial Services Act 1986 which

- (a) is formed under the law of an EEA State,
- (b) is not a UCITS, and
- (c) may lawfully offer its shares to the public in an EEA State;

“qualifying UK investment company” means an investment company within the meaning of section 266 of the Companies Act 1985—

- (a) which is incorporated in the United Kingdom, and
- (b) in relation to which, on the basis of its last published accounts, the ratio between the company’s loan capital and the value of its ordinary shares is 50 per cent. or less;

“recognized futures exchange” has the meaning given by section 288(6) of the Taxation of Chargeable Gains Act 1992(12);

“recognised scheme” has the meaning given by section 86 of the Financial Services Act 1986;

“recognised stock exchange” has the meaning given by section 841;

“relevant investments” in relation to the definition of “depository interest” means investments listed in the Schedule to these Regulations as investments which are permitted to be held by a self-invested personal pension scheme;

“residential property” means property normally used, or adapted for use, as one or more dwellings;

“scheme administrator” means the person referred to in section 638(1);

“self-invested personal pension scheme” has the meaning given by regulation 3;

(10) The definition of personal pension scheme in section 630(1) was amended by paragraph 2(2) of Schedule 11 to the Finance Act 1995.

(11) 1985 c. 6; section 266 was amended by section 117(3) of the Finance Act 1988 (c. 39).

(12) 1992 c. 12.

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

“UCITS” means an undertaking for collective investment in transferable securities within the meaning of Article 1 of Council Directive 85/611(13);

“umbrella personal pension unit trust” means a personal pension unit trust which is constituted as an umbrella fund within the meaning of the Financial Services (Regulated Scheme) Regulations 1991(14);

“unauthorised unit trust” has the meaning given by paragraph 2(4) of Schedule 10 to the Finance Act 1996(15);

“unit trust scheme” has the meaning given by section 75(8) of the Financial Services Act 1986;

“51 per cent. subsidiary” has the meaning given by section 838.

(2) For the purposes of these Regulations and subject to paragraph (3), any question whether a person is connected with another person shall be determined in accordance with section 839(16).

(3) A person shall not be regarded as connected with another person for the purposes of these Regulations where the connection arises as a result of a transaction entered into in the course of normal investment management by a scheme in relation to a fund that is a pooled fund.

(4) References in these Regulations to a freehold or leasehold interest in commercial or residential property include, as respects Scotland, the estate or interest of the proprietor of the dominium utile or, in the case of property other than feudal property, of the owner of such property, and the interest of a tenant in such property subject to a lease.

(5) In these Regulations references to a particular provision, without more, are references to that provision of the Taxes Act.

Definition of self-invested personal pension scheme

3.—(1) In these Regulations “self-invested personal pension scheme” means a personal pension scheme the arrangement made in accordance with which by a member—

- (a) 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 administrator, and
- (b) are not arrangements falling within paragraph (2).

(2) Arrangements fall within this paragraph if they are either—

- (a) arrangements under which—
 - (i) all the investments held for the purposes of the scheme comprise contracts or policies of insurance, units in unit trust schemes or shares in open-ended investment companies, and
 - (ii) in managing those investments, the scheme administrator does 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); or
- (b) arrangements under which—
 - (i) all contributions paid are, after deduction of expenses, invested in deposits with deposit-takers, and

(13) O.J. No. L375, 31.12.1985, pp.3–18, amended by Council Directive 88/220 (O.J. No. L100, 19.04.1988, pp.31–32).

(14) Made by the Securities and Investments Board under regulatory powers in sections 52, 81, 85 to 88 and 90 of the Financial Services Act 1986 (c. 60) now vested in the Financial Services Authority (see Releases 148, 159, 169, 178, 189, 191 and 198).

(15) 1996 c. 8.

(16) Section 839 was amended by paragraph 20 of Schedule 17 to the Finance Act 1995.

- (ii) the payment of interest on those deposits comprises the only income of the scheme from its investments.

Definition of individual pension account

4.—(1) For the purposes of regulations 6(2) and 7(4) “individual pension account” means an account within which investments may be held and which satisfies the following conditions.

- (2) The first condition is that the funds of the account consist only of—
 - (a) monies received from the trustees, managers or administrators of approved pension arrangements, or monies held for the purposes of approved pension arrangements that are designated to be held within the account, and
 - (b) income and gains arising from those monies when held as funds of the account.
- (3) The second condition is that any monies so received consist of one or more of the following—
 - (a) contributions to an approved pension arrangement by a member, or the employer of a member, of that approved pension arrangement,
 - (b) amounts transferred to an approved pension arrangement from another approved pension arrangement,
 - (c) minimum contributions referred to in section 638(6)(c)(17),
 - (d) minimum payments within the meaning given by section 8(2) of the Pension Schemes Act 1993(18).
- (4) The third condition is that the funds and other assets of the account—
 - (a) are held—
 - (i) by the trustees, managers or administrators of the approved pension arrangements whose members subscribe to the account as account holders, and
 - (ii) on behalf of the individual account holders as beneficial owners subject to the account rules, or
 - (b) in the case of assets consisting of units in a personal pension unit trust or, where the personal pension unit trust is an umbrella personal pension unit trust, in the respective parts of the umbrella personal pension unit trust—
 - (i) are registered in the names of the individual account holders, and
 - (ii) are issued subject to the terms of the trust deed and the rules constituting the personal pension unit trust.
- (5) The fourth condition is that the funds and other assets of the account are used only to provide benefits for individual account holders under approved pension arrangements and subject to the limits and rules of those approved pension arrangements.
- (6) The fifth condition is that the assets of the account, other than cash awaiting investment, consist of one or more of the following investments—
 - (a) units in an authorised unit trust scheme or in a unit trust scheme that is a recognised scheme,
 - (b) shares in a qualifying EEA open-ended investment company,

(17) Section 638(6)(c) was amended by paragraph 20(3) of Schedule 8 to the Pension Schemes Act 1993 (c. 48), paragraph 22(2) of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49), paragraph 3 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedules 3 and 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

(18) 1993 c. 48.

- (c) units in a UCITS formed under the laws of a member state other than the United Kingdom which has been authorised by the competent authorities of that member state and is a recognised scheme,
- (d) shares in a body corporate which is a qualifying UK investment company,
- (e) shares in a body corporate which is a qualifying EEA investment company,
- (f) shares in an investment company with variable capital, and
- (g) investments falling within paragraph 3 of Part I of Schedule I to the Financial Services Act 1986 (Government and public securities).

(7) The sixth condition is that, where monies are received by the account that comprise an individual's investment in more than one approved pension arrangement, the amount relating to each approved pension arrangement is separately identified by the administrator of the account.

(8) The seventh condition is that, whenever required to do so by an officer of the Board, the administrator of the account has provided to that officer the following information—

- (a) the names of individuals who are the account holders,
- (b) details of the approved pension arrangements of which those individuals are members,
- (c) the amount of the funds, and the description and value of the assets, held on behalf of each account holder,
- (d) the amount of income and gains accruing to each account holder from funds and assets held on that individual's behalf,
- (e) transfers of funds to another individual pension account on behalf of an account holder.

(9) The eighth condition is that, whenever required to do so by an officer of the Board, the administrator of the account has enabled that officer to audit and inspect all aspects of the management and administration of the account, including records and systems relating to the management or administration of the account.

(10) The reference in paragraph (6)(a) to units in an authorised unit trust scheme, where the authorised unit trust scheme is an umbrella personal pension unit trust that is constituted as a feeder fund or comprises feeder funds, comprises both the units in the feeder fund or feeder funds that are issued to the individual account holder and the underlying units held by the feeder fund or feeder funds.

Restrictions on discretion to approve—general

5. Regulations 6 to 10 impose, subject to regulation 11, restrictions on the Board's discretion to approve personal pension schemes under Chapter IV of Part XIV of the Taxes Act.

Restriction on investments—self-invested personal pension schemes

6.—(1) No investments may be held directly or indirectly for the purposes of a self-invested personal pension scheme other than the investments listed in the Schedule to these Regulations.

(2) Investments listed in the Schedule that are also specified in regulation 4(6) may be held within an individual pension account.

(3) Subject to paragraphs (4) to (8), no amount may be borrowed by a self-invested personal pension scheme for any purpose.

(4) A self-invested personal pension scheme may borrow an amount towards the purchase of a freehold or leasehold interest in commercial property to be held directly or indirectly as an investment for the purposes of the scheme, or towards the development of commercial property held directly or indirectly as an investment for the purposes of the scheme, but the amount borrowed—

- (a) must not exceed 75 per cent. of the purchase price of the property concerned, or 75 per cent. of the costs of any development,
- (b) must be secured only on that property or on any other asset of the scheme, and
- (c) where the property is subsequently sold, must be repaid on completion of the sale of the property.

(5) A self-invested personal pension scheme may borrow an amount to defray any liability to VAT arising on the purchase or development of commercial property in accordance with paragraph (4), but the period over which the amount is borrowed must not exceed—

- (a) the period commencing on the date on which the purchase or development of the property is completed and ending on the day that is 12 weeks after that date, or
- (b) the period commencing on the date on which the purchase or development of the property is completed and ending on the day on which the amount of the liability to VAT is refunded to the purchaser,

whichever is the shorter.

(6) A self-invested personal pension scheme may borrow an amount (“a replacement loan”) to replace a loan falling within paragraph (4).

(7) The amount of a replacement loan must not exceed the amount outstanding, as at the date on which the replacement loan is made, of the loan that is replaced.

(8) In this regulation—

- (a) references to the purchase price of commercial property include references to legal and other costs incidental to the purchase of the property;
- (b) references to the development of commercial property include references to—
 - (i) the erection of, or extensions to, buildings, or
 - (ii) the refurbishment or renovation of, or any other improvements to, buildings.

Restriction on investments—personal pension schemes other than self-invested personal pension schemes

7.—(1) This regulation applies to personal pension schemes other than self-invested personal pension schemes.

(2) None of the assets specified in paragraph (3) may be held directly or indirectly as an investment by a personal pension scheme.

(3) The assets specified in this paragraph are—

- (a) any personal chattels other than choses in action (or, in Scotland, any movable property other than incorporeal movable property);
- (b) any residential property other than that specified in paragraph (5).

(4) Assets which a personal pension scheme is not restricted under paragraph (2) or (3) from holding as an investment and which are also specified in regulation 4(6) may be held within an individual pension account.

(5) The residential property specified in this paragraph is—

- (a) property which is, or is to be, occupied by an employee, whether or not a member of the personal pension scheme or connected with a member of the scheme, who is not connected with his employer and is required as a condition of his employment to occupy the property, and

(b) property which is, or is to be, occupied by a person who is neither a member of the personal pension scheme nor connected with a member of the scheme in connection with the occupation by that person of business premises held as an investment by the scheme.

(6) For the purposes of paragraphs (2) and (3), a personal pension scheme shall not be regarded as indirectly holding as an investment residential property where the scheme holds as an investment units in a unit trust scheme that holds residential property and—

- (a) is an authorised unit trust scheme or a recognised scheme, or
- (b) is an unauthorised unit trust whose gains are not chargeable gains by virtue of section 100(2) of the Taxation of Chargeable Gains Act 1992⁽¹⁹⁾.

(7) For the purposes of paragraphs (2) and (3), a personal pension scheme shall not be regarded as indirectly holding as an investment residential property where—

- (a) the scheme holds as an investment a right which confers entitlement to receive payment of any ground rent, rentcharge, ground annual, feu duty or other annual payment reserved in respect of, or charged on or issuing out of, that property, and
- (b) the property is not occupied by a member of the scheme or a person connected with him.

Restrictions on lending

8.—(1) A self-invested personal pension scheme may not lend money to any person (whether or not that person is an individual who is a member of the scheme).

(2) A personal pension scheme that is not a self-invested personal pension scheme may not lend money to a member of the scheme or a person connected with him.

(3) A personal pension scheme shall be regarded, for the purposes of paragraphs (1) and (2), as lending money to a member of the scheme or a person connected with him in circumstances where—

- (a) the scheme holds as an investment, whether directly or indirectly, assets of a person,
- (b) that person lends money to the member concerned or a person connected with him, and
- (c) the loan has the effect of limiting or reducing in any way the return on the investment.

Restrictions on transactions with scheme member and others

9.—(1) Subject to paragraphs (2) and (3), no interest in an asset may be acquired by a personal pension scheme in circumstances where a member of that scheme, or a person connected with him, has an interest in that asset or, at any time in the period of three years prior to the date of the acquisition, had an interest in that asset.

(2) Paragraph (1) does not apply in relation to the transfer of eligible shares in a company in accordance with section 638(9) and (12)⁽²⁰⁾.

(3) Paragraph (1) does not apply in relation to the acquisition at market value by a self-invested personal pension scheme (“scheme A”) of an interest in commercial property in which another self-invested personal pension scheme (“scheme B”) also has an interest in circumstances where—

- (a) the commercial property is leased by scheme A to—
 - (i) the member of scheme A for the purposes of a trade or profession carried on by him, whether or not in partnership with another person or persons, or
 - (ii) a company which is connected with the member of scheme A, for the purposes of a business carried on by the company,
- (b) the lease is granted on normal commercial terms,

⁽¹⁹⁾ 1992 c. 12.

⁽²⁰⁾ Section 638 was amended by paragraph 13 of Schedule 13 to the Finance Act 2000.

- (c) the amount of the rent payable under the lease accords with a commercial rate and is supported by an independent professional valuation, and
- (d) either—
 - (i) the member of scheme A is, or becomes within a reasonable time after the acquisition by scheme A of the interest in the commercial property, a partner in a partnership carrying on the trade or profession in question, and the member of scheme B is also a partner in that partnership, or
 - (ii) the member of scheme A is, or becomes within a reasonable time after that acquisition, a director of the company to whom the commercial property is leased, and the member of scheme B is also a director of that company.
- (4) Except in the circumstances specified in paragraphs (3) and (5), no interest in an asset may directly or indirectly be sold or leased by a personal pension scheme to a member or a person connected with him.
- (5) Commercial property an interest in which is acquired at market value by a self-invested personal pension scheme otherwise than in a case to which paragraph (1) applies may, subject to the conditions specified in paragraph (6), be leased by the scheme to—
 - (a) the member for the purposes of a trade or profession carried on by him, whether or not in partnership with another person or persons, or
 - (b) a company which is connected with the member, for the purposes of a business carried on by the company.
- (6) The conditions specified in this paragraph are that—
 - (a) the lease is granted on normal commercial terms, and
 - (b) the amount of the rent payable under the lease accords with a commercial rate and is supported by an independent professional valuation.
- (7) For the purposes of paragraph (4) a sale by the scheme shall not be regarded as a sale indirectly to a member, or a person connected with him, if the purchase by the member or the person connected with him took place three years or more after the sale by the scheme.
- (8) In paragraphs (3) and (5) “business” means a trade, profession or any other activity carried on by the company except the activity of making or managing investments unless—
 - (a) those investments consist wholly of shares in 51 per cent. subsidiaries of the company, and
 - (b) those subsidiaries do not themselves carry on the activity of making or managing investments.
- (9) In this regulation “market value” means the price which the interest in the commercial property might reasonably be expected to fetch on a sale in the open market.

Restrictions on investments relating to members of self-invested personal pension schemes

- 10.**—(1) A self-invested personal pension scheme may not set up after the pension date of a member of the scheme either—
- (a) a borrowing arrangement for that member, or
 - (b) in the case of a serialised borrowing arrangement in existence at the time of the pension date, a further instalment of the loan for that member.
- (2) Paragraph (1) applies notwithstanding that the purpose of the borrowing arrangement or, as the case may be, the further instalment of the loan would be to acquire particular investments in accordance with the member’s direction.

(3) No commercial property may be acquired by a self-invested personal pension scheme in respect of a member of the scheme after the member's pension date or his attaining the age of 65, whichever is the later.

(4) In paragraphs (1) and (3) "pension date" has the meaning given by section 630(1)(21).

Schemes awaiting approval

11.—(1) Where at the date of coming into force of these Regulations a personal pension scheme is in existence and either—

- (a) has not yet been submitted to the Board for approval, or
- (b) is before the Board for approval,

the Board shall not be prevented from approving it under Chapter IV of Part XIV of the Taxes Act by reason only that it contains a provision or provisions of a description specified in any of subparagraphs (a) to (c) of paragraph (2).

(2) The description of provisions specified in this paragraph is—

- (a) a provision which authorises the scheme to retain as an investment an asset—
 - (i) which is held by the scheme immediately before the date on which these Regulations were made, and
 - (ii) the holding of which directly or indirectly as an investment would, by virtue of regulation 6 or 7, prevent the Board from approving the scheme;
- (b) a provision which authorises the scheme to continue to lend money to a person in circumstances which, by virtue of regulation 8, would prevent the Board from approving the scheme;
- (c) a provision which authorises the scheme to acquire, sell or lease any interest in an asset in circumstances which, by virtue of regulation 9, would prevent the Board from approving the scheme.

Tim Flesher
Dave Hartnett

23rd January 2001

Two of the Commissioners of Inland Revenue

(21) The definition of pension date in section 630(1) was inserted by paragraph 2(2) of Schedule 11 to the Finance Act 1995.

SCHEDULE

Regulation 6

LIST OF INVESTMENTS THAT MAY BE HELD DIRECTLY OR INDIRECTLY FOR THE PURPOSES OF A SELF-INVESTED PERSONAL PENSION SCHEME

1. Stocks and shares listed or dealt in on a recognised stock exchange.
2. Futures and options, relating to stocks and shares, traded on a recognised futures exchange.
3. Depositary interests.
4. Units in an authorised unit trust scheme.
5. Units in a unit trust scheme which—
 - (a) is an unauthorised unit trust whose gains are not chargeable gains by virtue of section 100(2) of the Taxation of Chargeable Gains Act 1992, and
 - (b) does not hold any freehold or leasehold interest in residential property other than that specified in paragraph 13 or 14 of this Schedule.
6. Eligible shares within the meaning of section 638(11) received by the self-invested personal pension scheme as contributions to the scheme.
7. Shares in an open-ended investment company.
8. Interests (however described) in a collective investment scheme that is either a recognised scheme or a designated scheme within the meaning of section 86 or 87 of the Financial Services Act 1986.
9. Contracts or policies of insurance linked to insurance company managed funds, unit-linked funds or investment funds of an insurance company resident in the United Kingdom or authorised in accordance with Article 6 of Council Directive 79/267 (First Council Directive on Direct Life Assurance)(22).
10. Traded endowment policies transacted with a person regulated by the Financial Services Authority.
11. Deposits in any currency held in deposit accounts with any deposit-taker.
12. A freehold or leasehold interest in commercial property where the interest is acquired from any person other than a member of the scheme or a person connected with him, or the interest is acquired from a member of the scheme or a person connected with him in circumstances in which regulation 9(3) applies.
13. A freehold or leasehold interest in any residential property which is—
 - (a) property which is, or is to be, occupied by an employee, whether or not a member of the self-invested personal pension scheme or connected with a member of the scheme, who is not connected with his employer and is required as a condition of his employment to occupy the property, and
 - (b) property which is, or is to be, occupied by a person who is neither a member of the self-invested personal pension scheme nor connected with a member of the scheme in connection with the occupation by that person of business premises held as an investment by the scheme.
14. Ground rents, rent charges, ground annuals, feu duties or other annual payments reserved in respect of, or charged on or issuing out of, property, except where the property concerned is occupied by a member of the scheme or a person connected with him.

(22) O.J. 1979, L63/1. Article 6 was substituted by Article 3 of Directive 92/96 (O.J. 1992, L360(1)).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose restrictions on the Board of Inland Revenue's discretion to approve a personal pension scheme by restricting the investments in which the scheme may invest.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 defines a "self-invested personal pension scheme" for the purposes of these Regulations.

Regulation 4 defines "individual pension account" for the purposes of regulations 6 and 7 of these Regulations.

Regulation 5 introduces regulations 6 to 10 which impose restrictions on the investments in which a personal pension scheme may invest.

Regulation 6 provides that a self-invested personal pension scheme may only invest in those investments listed in the Schedule to these Regulations, and stipulates restrictions on a self-invested personal pension scheme's borrowing powers.

Regulation 7 prohibits personal pension schemes other than self-invested personal pension schemes from investing in personal chattels or, subject to specified exceptions, residential property.

Regulation 8 prohibits self-invested personal pension schemes from lending to any person, and personal pension schemes that are not self-invested personal pension schemes from lending to members of the scheme or persons connected with members.

Regulation 9 prohibits personal pension schemes from purchasing, selling or leasing assets from or to members of the scheme or persons connected with members (subject to exceptions relating to commercial property).

Regulation 10 prohibits self-invested personal pension schemes from setting up borrowing arrangements for a member, or issuing further instalments of an existing serialised loan, after an annuity first becomes payable to the member under the scheme or the member elects to defer the purchase of an annuity ("the member's pension date"). The regulation also prohibits such schemes from acquiring commercial property for a member after the member's pension date or he attains 65, whichever is the later.

Regulation 11 contains transitional provisions with regard to personal pension schemes which had not yet been submitted for approval, or were awaiting the Board's approval, when these Regulations came into force.