
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART II

OCCUPATIONAL PENSIONS

Functions of trustees or managers

Restriction on employer-related investments

40.—(1) The trustees or managers of an occupational pension scheme must secure that the scheme complies with any prescribed restrictions with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.

(2) In this Article—

“employer-related investments” means—

- (a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer,
- (b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person,
- (c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person,
- (d) loans to the employer or any such person, and
- (e) other prescribed investments,

Definition rep. by SI 2001/3649

[^{F1}(2A) In the definition of “employer-related investments” in paragraph (2), “securities” means—

- (a) shares,
- (b) instruments creating or acknowledging indebtedness,
- (c) instruments giving entitlements to investments,
- (d) certificates representing securities.

(2B) Paragraph (2A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order made under that section, and
- (c) Schedule 2 to that Act.]

(3) To the extent (if any) that sums due and payable by a person to the trustees or managers of an occupational pension scheme remain unpaid—

- (a) they shall be regarded for the purposes of this Article as loans made to that person by the trustees or managers, and

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(b) resources of the scheme shall be regarded as invested accordingly.

(4) If in the case of a trust scheme paragraph (1) is not complied with, ^[F2] Article 10 applies] to any trustee who fails to take all such steps as are reasonable to secure compliance.

(5) If any resources of an occupational pension scheme are invested in contravention of paragraph (1), any trustee or manager who agreed in the determination to make the investment is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to a fine or imprisonment, or both.

F1	SI 2004/355
F2	2005 NI 1

Provision of documents for members

41.—(1) Regulations may require the trustees or managers of an occupational pension scheme—

- (a) to obtain at prescribed times the documents mentioned in paragraph (2), and
- (b) to make copies of them, and of the documents mentioned in paragraph (3), available to the persons mentioned in paragraph (4).

(2) The documents referred to in paragraph (1)(a) are—

- (a) the accounts audited by the auditor of the scheme,
- (b) the auditor's statement about contributions under the scheme,

Sub-para. (c) rep. by 2005 NI 1

^[F3](3) The documents referred to in paragraph (1)(b) are—

- (a) any statement of funding principles prepared or revised under Article 202 of the Pensions (Northern Ireland) Order 2005,
- (b) any valuation or report prepared by the actuary under Article 203 of that Order,
- (c) any certificate given by the actuary under Article 204 or 206 of that Order.]

(4) The persons referred to in paragraph (1)(b) are—

- (a) members and prospective members of the scheme,
- (b) spouses^[F4] or civil partners] of members and of prospective members,
- (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits,
- (d) independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme.

^[F5](5) Regulations may in the case of occupational pension schemes provide for—

- (a) prescribed persons,
- (b) persons with prescribed qualifications or experience, or
- (c) persons approved by the Department,

to act for the purposes of paragraph (2) instead of scheme auditors or actuaries.

(5A) Regulations may impose duties on the trustees or managers of an occupational pension scheme to disclose information to, and make documents available to, a person acting under paragraph (5).

(5B) If any duty imposed under paragraph (5A) is not complied with,^{F3} Article 10 applies to any trustee, and] to any manager, who has failed to take all such steps as are reasonable to secure compliance.]

(6) Regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in paragraph (4)(d) and may make provision as to the form and content of any such document as is referred to in paragraph (2).

F3	2005 NI 1
F4	SR 2005/434
F5	2000 c. 4 (NI)

^{F6}Climate change risk

41A.—(1) Regulations may impose requirements on the trustees or managers of an occupational pension scheme of a prescribed description with a view to securing that there is effective governance of the scheme with respect to the effects of climate change.

(2) The effects of climate change in relation to which provision may be made under paragraph (1) include, in particular—

- (a) risks arising from steps taken because of climate change (whether by governments or otherwise), and
- (b) opportunities relating to climate change.

(3) The requirements which may be imposed by the regulations include, in particular, requirements about—

- (a) reviewing the exposure of the scheme to risks of a prescribed description;
- (b) assessing the assets of the scheme in a prescribed manner;
- (c) determining, reviewing and (if necessary) revising a strategy for managing the scheme's exposure to risks of a prescribed description;
- (d) determining, reviewing and (if necessary) revising targets relating to the scheme's exposure to risks of a prescribed description;
- (e) measuring performance against such targets;
- (f) preparing documents containing information of a prescribed description.

(4) Regulations under paragraph (3)(b) may, in particular, require—

- (a) that assets are assessed by reference to their exposure to risks of a prescribed description, and
- (b) that an assessment includes determining the contribution of the assets of the scheme to climate change.

(5) The regulations may require the trustees or managers of the scheme to take into account—

- (a) different ways in which the climate might change, and
- (b) different steps that might be taken because of climate change.

(6) Regulations under paragraph (5) may require the trustees or managers of the scheme to adopt prescribed assumptions as to future events, including assumptions about—

- (a) the steps that might be taken for the purpose of achieving the Paris Agreement goal or other climate change goal, or
- (b) the achievement of the Paris Agreement goal or other climate change goal.

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(7) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

(8) In this Article “the Paris Agreement goal” means the goal of holding the increase in the average global temperature to well below 2°C above pre-industrial levels referred to in Article 2(1) (a) of the agreement done at Paris on 12 December 2015.

F6 Arts. 41A-41C inserted (1.9.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 12(2); S.R. 2021/240, art. 2(2)(e)

Climate change risk: publication of information

41B.—(1) Regulations may require the trustees or managers of an occupational pension scheme of a prescribed description to publish information of a prescribed description relating to the effects of climate change on the scheme (which may include information about matters to which regulations under Article 41A may relate).

(2) Regulations under paragraph (1) may, among other things—

- (a) require the trustees or managers to publish a document of a prescribed description;
- (b) require information or a document to be made available free of charge;
- (c) require information or a document to be provided in a form that is or by means that are prescribed or of a prescribed description.

(3) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

F6 Arts. 41A-41C inserted (1.9.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 12(2); S.R. 2021/240, art. 2(2)(e)

Articles 41A and 41B: compliance

41C.—(1) Regulations may make provision with a view to ensuring compliance with a provision of regulations under Article 41A or 41B.

(2) The regulations may in particular—

- (a) provide for the Authority to issue a notice (a “compliance notice”) to a person with a view to ensuring the person's compliance with a provision of regulations under Article 41A or 41B;
- (b) provide for the Authority to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person's compliance with a provision of regulations under Article 41A or 41B;
- (c) provide for the Authority to issue a notice (a “penalty notice”) imposing a penalty on a person where the Authority are of the opinion that the person—
 - (i) has failed to comply with a compliance notice or third party compliance notice, or
 - (ii) has contravened a provision of regulations under Article 41A or 41B;
- (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
- (e) confer other functions on the Authority.

(3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

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(4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

- (a) £5,000, in the case of an individual, and
- (b) £50,000, in any other case.

(5) In this Article “First-tier Tribunal” and “Upper Tribunal” mean those tribunals established under section 3 of the Tribunals, Courts and Enforcement Act 2007.]

F6 Arts. 41A-41C inserted (1.9.2021) by Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), **Sch. 11 para. 12(2)**; S.R. 2021/240, art. 2(2)(e)

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Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72](#)
- power to am. (prosp.) by [1998 c. 47 s.87](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 18(15)(16) repealed by [2012 c. 3 \(N.I.\) Sch. 2 para. 4\(b\)](#)
- Sch. 2 Pt. 3 para. 18(8) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- Sch. 2 Pt. 3 para. 18(18) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- art. 37(1A)(a) word inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(a\)](#)
- art. 37(1A)(b) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(b\)](#)
- art. 51(5A)-(5C) inserted by [2016 c. 1 \(N.I.\) s. 43\(1\)](#)
- art. 51(7A) inserted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(b\)](#)
- art. 51(9)(10) inserted by [2016 c. 1 \(N.I.\) s. 42\(3\)](#) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by [2016 c. 1 \(N.I.\) s. 45\(3\)](#)
- art. 67A(9)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) s. 45\(6\)\(b\)](#)
- art. 73(2)(2A) substituted for art. 73(2) by [2016 c. 1 \(N.I.\) Sch. 2 para. 11](#)
- art. 75(1)-(1B) substituted for art. 75(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 12](#)
- art. 167(3)(aa) inserted by [2016 c. 1 \(N.I.\) s. 43\(2\)](#)