

2022 No. 210

PENSIONS

The Occupational Pension Schemes (Investment) (Employer-related Investments by Master Trusts) (Amendment) Regulations (Northern Ireland) 2022

Made - - - - *7th September 2022*

Coming into operation - *1st October 2022*

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 109(1)(d) and (3) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(a) and Articles 40(1) and (2), 41(1) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(b), and now vested in it(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Investment) (Employer-related Investments by Master Trusts) (Amendment) Regulations (Northern Ireland) 2022 and shall come into operation on 1st October 2022.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations

2. In regulation 3A of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997(e) (information to be included in the accounts audited by the auditor)—

(a) in paragraph (7) for “In paragraph (4),” substitute “Subject to paragraph (8), in paragraph (4),”;

(b) after paragraph (7) add—

“(8) Where regulation 16A of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(f) (authorised Master Trust schemes) applies to a scheme that is a trust scheme, then for the purposes of the statement required by paragraph (4), any employer-related investments which do not meet the definition in regulation 16A(4) of those Regulations may be disregarded.”.

(a) 1993 c. 49; section 109(1) was amended by section 48(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
(b) S.I. 1995/3213 (N.I. 22); Article 40(2) was amended by Article 152(2) of S.I. 2001/3649
(c) See Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(d) 1954 c. 33 (N.I.)
(e) S.R. 1997 No. 40; regulation 3A was inserted by regulation 2(4) of S.R. 2016 No. 141
(f) S.R. 2005 No. 569; regulation 16A is inserted by regulation 3(6) of these Regulations

Amendment of the Occupational Pension Schemes (Investment) Regulations

3.—(1) The Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(5) (interpretation) after “In these Regulations,” insert “save in relation to regulation 16A,”.

(3) In regulation 12(a) (restrictions on employer-related investments)—

- (a) in paragraph (2) for “13 and 16” substitute “13, 16, 16A and 16B”;
- (b) in paragraph (2A) for “15A and 16” substitute “15A, 16, 16A and 16B”;
- (c) in paragraph (2B)—
 - (i) for “regulation 16” substitute “regulations 16 and 16A”;
 - (ii) for “15 and 15A” substitute “15, 15A, 16A(9) and 16B”;
- (d) in paragraph (3) for “None of the resources” substitute “Subject to regulations 16A and 16B, none of the resources”.

(4) In regulation 15A(1)(b) (deposits) after “employer-related loan” insert “mentioned in regulation 12(4) or 16A(5)”.

(5) In regulation 16(5)(c) (multi-employer schemes) for “Where there is” substitute “Subject to regulations 16A and 16B, where there is”.

(6) After regulation 16 insert—

“Authorised Master Trust schemes

16A.—(1) Subject to paragraphs (2) and (3), this regulation applies to a scheme which is—

- (a) a Master Trust scheme to which Part 1 of the 2021 Act applies (and where that scheme provides money purchase benefits in conjunction with other benefits, references to that scheme are to the scheme only to the extent that it provides money purchase benefits);
- (b) authorised in accordance with section 5(4)(a) of the 2021 Act (decision on application), and
- (c) used by 500 or more employers.

(2) This regulation continues to apply to a scheme during any period of less than two years in which the number of employers using the scheme falls below 500.

(3) If a scheme to which this regulation applies ceases to be authorised in accordance with section 5(4)(a) of the 2021 Act, this regulation continues to apply to the scheme until the date which is two years after the date on which a decision to withdraw authorisation from the scheme becomes final in accordance with section 35 of the 2021 Act.

(4) For the purposes of determining whether the scheme complies with regulation 12(2), “employer-related investments” means—

- (a) shares or other securities issued by a relevant person;
- (b) land which is occupied or used by, or subject to a lease in favour of, a relevant person;
- (c) property (other than land) which is used for the purposes of any business carried on by a relevant person;
- (d) loans to a relevant person;

(a) Regulation 12 was amended by regulation 14(3) of S.R. 2007 No. 185 and regulation 17(3) of S.R. 2009 No. 115

(b) Regulation 15A was inserted by regulation 17(5) of S.R. 2009 No. 115 and amended by Article 4 of S.I. 2013/472 and regulation 25(4) of S.I. 2019/193

(c) Regulation 16 was amended by regulation 17(6) of S.R. 2009 No. 115

- (e) any guarantee of, or security given to secure, obligations of a relevant person, and for the purposes of Article 40 and these Regulations a guarantee or security given by the trustees or managers shall be regarded as an investment of resources of the scheme equal to the amount of the obligations guaranteed or secured;
 - (f) any loan arrangement entered into with any person whereby the trustees' or managers' right to or expectation of repayment depends on the actions or situation of a relevant person, unless it was not the trustees' or managers' purpose in entering into the arrangement to provide financial assistance to the relevant person;
 - (g) the proportion attributable to the scheme's resources (whether directly or through any intervening collective investment scheme) of any investments which—
 - (i) have been made by the operator of any collective investment scheme, and
 - (ii) would, if they had been made by the scheme, have met any of the descriptions set out in sub-paragraphs (a) to (f);
 - (h) where any of a scheme's resources are invested in an insurance policy that meets the description set out in regulation 11(d), the proportion of the scheme's resources invested in that policy which is the same proportion as B is of A where—
 - A represents all the assets of the insurer held in the fund, and
 - B represents that part of A which would, if invested by the scheme, have met any of the descriptions set out in sub-paragraphs (a) to (f), and
 - (i) where any of a scheme's resources are invested in an insurance policy that meets the description set out in regulation 11(e), any investments made by the insurer from the premiums or other consideration or monies described in regulation 11(e), which would have met any of the descriptions set out in sub-paragraphs (a) to (f) if they had been made by the scheme.
- (5) For the purposes of determining whether the scheme complies with regulation 12(2A) and for the purposes of regulation 12(2B), “employer-related loan” means—
- (a) a loan to a relevant person (including one which falls within this description by virtue of Article 40(3));
 - (b) a security described in paragraph (4)(a) which is an instrument creating or acknowledging indebtedness, except any such security which is listed on a recognised stock exchange;
 - (c) an employer-related investment prescribed as such by regulation 11(b), which meets the description set out in paragraph (4)(e), and
 - (d) an employer-related investment prescribed as such by regulation 11(c), which meets the description set out in paragraph (4)(f).
- (6) For the purposes of regulation 12(3), “employer-related investment” has the meaning set out in paragraph (4).
- (7) In regulation 13(10), “employer-related investments” has the meaning set out in paragraph (4).
- (8) Regulation 16(5)(a) applies with the omission of “and in any event must not exceed 20 per cent. of the current market value of the scheme”.
- (9) If an investment falls within the definition of “employer-related investments” set out in paragraph (4) or the definition of “employer-related loan” set out in paragraph (5) on or after 1st October 2022, other than as a result of new investment by the scheme, the investment may be retained, or left undischarged, until whichever is the later of—
- (a) the date falling two years after the date on which it first fell within the definition set out in paragraph (4) or (5), and
 - (b) where repayment cannot by virtue of contractual or other legal obligations be required, or where disinvestment cannot be effected before the date mentioned in sub-paragraph (a), the earliest date on which repayment can be enforced or disinvestment effected.

(10) Paragraph (9) does not apply in respect of any sum regarded as a loan under Article 40(3).

(11) For the purposes of this regulation—

“the 2021 Act” means the Pension Schemes Act (Northern Ireland) 2021(a);

“active member” has the meaning set out in Article 121(1);

“employer” means a person who employs or engages persons who are, or are entitled to become, members of the scheme, including at least one active member of the scheme;

“money purchase benefits” has the meaning set out in section 176(1)(b) of the Pension Schemes Act;

“relevant person” means a scheme funder, a scheme strategist or any person who is connected with, or an associate of, a scheme funder or a scheme strategist;

“scheme funder” and “scheme strategist” have the meanings set out in section 39 of the 2021 Act;

“securities” has the meaning set out in Article 40(2A)(c) (restriction on employer-related investments) and must be read in accordance with Article 40(2B).

Schemes to which regulation 16A ceases to apply

16B. To the extent that—

- (a) an investment becomes an employer-related loan or an employer-related investment as a result of regulation 16A ceasing to apply to a scheme, and
- (b) repayment or disinvestment cannot be effected immediately by virtue of contractual or other legal obligations,

the investment may be retained until the earliest date on which, having regard to contractual and other legal obligations, repayment or disinvestment can be effected.”.

Amendment of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations

4. In paragraph 33 of Schedule 3 to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(d) (information to be given on request)—

- (a) in sub-paragraph (2) for “In sub-paragraph (1)” substitute “Subject to sub-paragraph (3), in sub-paragraph (1)”;
- (b) after sub-paragraph (2) add—

“(3) Where regulation 16A of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 (authorised Master Trust schemes) applies to a scheme that is a trust scheme, then for the purposes of the statement required by sub-paragraph (1), any employer-related investments which do not meet the definition in regulation 16A(4) of those Regulations may be disregarded.”.

Sealed with the Official Seal of the Department for Communities on 7th September 2022

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

(a) 2021 c. 6 (N.I.)

(b) The definition of “money purchase benefits” was amended by section 27(1) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)), paragraph 3(3) of Schedule 4 to the Pension Schemes Act 2021 (c. 1) and paragraph 19 of the Schedule to S.R. 2005 No. 434

(c) Article 40(2A) and (2B) was inserted by Article 26(2) of S.I. 2004/355

(d) S.R. 2014 No. 79

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations narrow the scope of investments that come within the definition of “employer-related investments” for large Master Trust schemes with 500 or more participating employers.

Regulation 2 amends the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997 so that the accounting requirements for large Master Trust schemes reflect the updated provisions on employer-related investments that apply in respect of those schemes.

Regulation 3 amends the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 so that the restrictions on employer-related investments by large Master Trusts only apply to investments relating to a scheme funder, a scheme strategist and persons connected or associated with a scheme funder or a scheme strategist.

Regulation 4 amends the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 so that the information that must be disclosed on request to members of large Master Trust schemes reflects the updated provisions on employer-related investments that apply in respect of those schemes.

As these Regulations, in so far as they are made under the Pensions (Northern Ireland) Order 1995, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 117(1) of that Order does not apply by virtue of paragraph (2)(e) of that Article.

An assessment of the cost to business of these Regulations is detailed in a Regulatory Impact Assessment, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Communities, Social Security Policy, Legislation and Decision Making Services, Level 6, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or from the website: <https://www.communities-ni.gov.uk/articles/pension-information>. A copy of the Assessment is also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>.

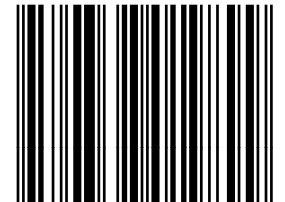
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