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STATUTORY INSTRUMENTS

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**1998 No. 1494**

**PENSIONS**

**The Occupational Pension Schemes (Scheme Administration) Amendment Regulations 1998**

<i>Made</i>	- - - -	<i>18th June 1998</i>
<i>Laid before Parliament</i>		<i>25th June 1998</i>
<i>Coming into force</i>	- -	<i>22nd July 1998</i>

The Secretary of State for Social Security, in exercise of the powers conferred on her by sections 47(5) and 174(3) of the Pensions Act 1995<sup>(1)</sup>, and of all other powers enabling her in that behalf, and after consulting such persons as she considers appropriate<sup>(2)</sup>, hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Scheme Administration) Amendment Regulations 1998 and shall come into force on 22nd July 1998.

**Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996**

2. In regulation 3 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996<sup>(3)</sup> (exemptions from the professional advisers requirements) after paragraph (4) there shall be added the following new paragraphs:—

“(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 the case of a custodian appointed before the relevant date, set out in writing, or

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<sup>(1)</sup> 1995 c. 26. See section 124(1) for the definitions of “prescribed” and “regulations”.

<sup>(2)</sup> See section 120(1) of the Pensions Act 1995.

<sup>(3)</sup> S.I.1996/1715; regulation 3 was amended by S.I. 1997/786.

(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 paragraphs (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.”.

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

18th June 1998

*John Y. Denham*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations insert new paragraphs (5), (6) and (7) into regulation 3 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 which provides for exemptions from certain requirements, in section 47 of the Pensions Act 1995, as to the appointment of, and reliance on, professional advisers in relation to the management of pension schemes. The new paragraphs disapply section 47(3) of that Act (which provides for sanctions against trustees or managers of schemes who rely on the skill or judgement of advisers whom they have not themselves appointed) where reliance is placed on certain persons exercising functions concerned with the custody of scheme assets.

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, including these Regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Occupational and Personal Pensions Policy, 3rd Floor, The Adelphi, 1—11 John Adam Street, London WC2N 6HT.