

## 2005 No. 2426

### PENSIONS

#### The Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005

*Made* - - - - - 30th August 2005

*Laid before Parliament* 1st September 2005

*Coming into force in accordance with regulation 1*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 113(1)(d), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(a) and sections 41(1) and (6), 47(5) and (6), 49(2), (4) and (9)(b), 87(1), 88(1), 124(1) and 174(2) and (3) of the Pensions Act 1995(b), and of all other powers enabling him in that behalf, and after consulting such persons as he considers appropriate(c), hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005.

(2) These Regulations shall come into force as follows—

- (a) in the case of an occupational pension scheme established before 22nd September 2005, this regulation, regulation 2(1) to (4) and regulation 3 on the first day of the first scheme year that starts on, or after 22nd September 2005;
- (b) in the case of an occupational pension scheme established on or after 22nd September 2005, this regulation, regulation 2(1) to (4), and regulation 3, on 22nd September 2005; and
- (c) for all other purposes on 6th April 2006.

(3) In these Regulations—

“the Audited Accounts Regulations” means the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996(d);

“the Scheme Administration Regulations” means the Occupational Pension Schemes (Scheme Administration) Regulations 1996(e); and

- 
- (a) 1993 c. 48. Section 181 is cited for the meaning there given to “prescribe” and “regulations”.
  - (b) 1995 c. 26. Section 124 is cited for the meaning there given to “prescribed” and “regulations”. Section 41(6) was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8). Sections 49(9)(b) and 88(1) were substituted by section 269 of the Pensions Act 2004 (c. 35).
  - (c) See section 185(1) of the Pension Schemes Act 1993, which was amended by sections 122, 151 and 177 of, and paragraph 46 of Schedule 3, paragraph 80 of Schedule 5 to, the Pensions Act 1995, and section 81 of, and paragraphs 20 and 23 to, the Welfare Reform and Pensions Act 1999 (c. 30) and section 120(1) of the Pensions Act 1995.
  - (d) S.I. 1996/1975 which was amended by S.I. 1997/786 and 3038, and 2000/833 and 3198.
  - (e) S.I. 1996/1715 which was amended by S.I. 1997/786 and 819, 1998/1494, 1999/3198, 2000/679 and 2001/3649.

## OCCUPATIONAL PENSION SCHEMES (ADMINISTRATION AND (AUDITED ACCOUNTS) (AMENDMENT) REGULATIONS 2005

“scheme year” means—

(a) either—

(i) a year specified for the purposes of the scheme rules in any document which contains those scheme rules; or

(ii) if no such year is specified, a period of 12 months commencing on 1st April or on such date as the trustees or managers 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.

[Regulation 2 makes various amendments to S.I. 1996/1975.]

[Regulations 3 and 4 makes various amendments to S.I. 1996/1715.]

[Regulation 5 revokes various provisions in S.I. 2000/2692.]

Signed by authority of the Secretary of State for Work and Pensions.

*Stephen C. Timms*

Minister of State,

Department for Work and Pensions

30 August 2005

## EXPLANATORY NOTE

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

These Regulations amend the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715) (“the Scheme Administration Regulations”) and the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (S.I. 1996/1975) (“the Audited Accounts Regulations”). These amendments implement the European Directive on the activities and supervision of Institutions for Occupational Retirement Provision (Directive 2003/41/EC) (“the Directive”), and are consequential on the coming into force of the Finance Act 2004 (c.12), and the Pensions Act 2004 (c. 35).

Regulation 2 amends the Audited Accounts Regulations. In particular it amends the exemptions contained in those regulations from the requirement to maintain audited accounts and introduces a “materiality” requirement in relation to the occasions where the auditor of a scheme is required to qualify a scheme’s accounts. It also further amends the Audited Accounts Regulations by removing an obsolete reference.

Regulation 3 amends the Scheme Administration Regulations to come into force in the case of a new scheme on 22nd September 2005, and in the case of an existing scheme on the first day of the scheme year that falls on or after 22nd September 2005. In particular it adds a number of new definitions, amends the exemptions of schemes that are not required to appoint an auditor, and makes other changes that are consequential on these amendments.

Regulation 4 amends the Scheme Administration Regulations to come into force on 6th April 2006. In particular it makes further amendments to the list of schemes which are exempt from the requirement to appoint professional advisers, deletes an obsolete regulation and makes further amendments to the requirements to notify the Authority of the late payment of a contribution.

Regulation 5 provides for the revocation of regulations following the revocation of the enabling power that supported them.

These Regulations transpose the Directive. Article 10 requires that every relevant institution in a member state must provide annual accounts and annual reports in respect of every pension scheme it operates giving a true and fair view of the institution's assets, liabilities and financial position. It also provides that the accounts shall be approved by an authorised person. Article 5 permits an exemption from these requirements in relation to small pension schemes (those which have fewer than 100 members) and in relation to certain statutory schemes. Regulation 2(1) to (4) and regulation 3 of these Regulations amend the Audited Accounts and Scheme Administration Regulations to delete exemptions which are not within the scope of Article 5.

The transposition of Article 10 of the Directive is detailed in the Transposition Table that accompanied the Act. A copy of that Table has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Better Regulation Unit, 4th floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

These Regulations have only a negligible impact on business. Publication of a full Regulatory Impact assessment is not necessary for such legislation.

