1987 No. 1102

PENSIONS

The Occupational Pension Schemes (Auditors) Regulations 1987

Made - - - -	*25th June 1987*
Laid before Parliament	*6th July 1987*
Coming into force -	*27th July 1987*

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 168(1) of, and Schedule 10 to, the Social Security Act 1975**(a)**, section 56P of the Social Security Pensions Act 1975**(b)** and sections 54(1) and 84(1) of the Social Security Act 1986**(c)** and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Auditors) Regulations 1987 and shall come into force on 27th July 1987.

(2) In these Regulations, unless the context otherwise requires–

"the Act" means the ►Pension Schemes Act 1993◄;

Words in defn. of "the Act" substituted by para. 11 of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

"the Appointing Body", in relation to any scheme, means the person or body designated in any document constituting the scheme as the person or body with the function of appointing the auditor of the scheme, or, where there is no such person or body, the trustees of the scheme;

"beneficiary", in relation to any scheme, means a person, other than a member of the scheme, who is entitled to payment of benefits under the scheme;

"the Disclosure Regulations" means the Occupational Pension Schemes (Disclosure of Information) Regulations 1986**(d)**;

"employer", in relation to a member or prospective member of a scheme, bears the meaning assigned to it by ►regulation 2 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991◄**(e);**

Words substituted in reg. 1(2) by para. 4 of Sch. 1 to S.I. 1991/167 as from 28.2.91.

"funded", in relation to benefits under a scheme, bears the meaning assigned to it by regulation 1(2) of the disclosure Regulations;

"member" and "prospective member", in relation to any scheme, bear the

(a) 1975 c. 14. *See* definitions of prescribe and regulations in Schedule 10. Section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c. 60), to the exercise of certain powers conferred by that Act.
(b) 1975 c. 60; section 56P was added by section 11 of the Social Security Act 1986 (c. 50),
(c) 1986 c. 50. *See* definition of regulations in section 84(1).
(d) S.I. 1986/1046, to which there are amendments not relevant to these Regulations.
(e) S.I. 1991/167.

meanings respectively assigned to those expressions by regulation 2(2) and (3) of the Disclosure Regulations:

"scheme" means occupational pension scheme;

"scheme year" in relation to any scheme, bears the meaning assigned to it by regulation 1(2) of the Disclosure Regulations;

"trustees", in relation to a scheme which is not set up or established under a trust, means the managers of the scheme;

"unfunded scheme" means a scheme whose benefits are not funded;

and other expressions have the same meaning as in the Act.

(3) Except so far as the context otherwise requires, any reference–

(a) in these Regulations to a numbered regulation is to the regulation in these Regulations bearing that number;

(b) in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

Application of Regulations

2. None of the requirements of these Regulations shall apply to any scheme to which regulation 7 of the Disclosure Regulations does not apply ►or which is established outside the United Kingdom◄.

Words in reg. 2 inserted by reg. 6(2 of S.I. 1988/476 as from 6.4.88.

Appointment, resignation and removal of auditors

3.—(1) The Appointing Body of a scheme shall appoint one or more persons who satisfy the requirements of regulation 7(3) of the Disclosure Regulations to audit the scheme's accounts for each scheme year, or, where the scheme was in operation for only part of a particular scheme year, for that part of that scheme year.

(2) The Appointing Body of a scheme may remove an auditor at any time by serving on him a notice in writing stating the date with effect from which his appointment is terminated.

(3) Subject to the provisions of paragraph (4), an auditor of a scheme may resign at any time by serving on the Appointing Body and the trustees of the scheme a notice in writing, and if he does so his resignation shall be effective from the date (if any) specified in the notice as being that from which he wishes his resignation to be effective, or, if no such date is so specified, the date on which the Appointing Body receives the notice.

(4) An auditor's resignation shall not be effective unless the notice referred to in paragraph (3) contains either–

(a) a statement specifying any circumstances connected with the auditor's proposed resignation which, in his opinion, significantly affect the interests of the members or prospective members of, or beneficiaries under, the scheme; or

(b) a statement that the auditor knows of no such circumstances.

(5) Where an auditor is removed in accordance with paragraph (2), he shall, within 14 days of the removal, serve on the Appointing Body and the trustees of the scheme either–

(a) a statement specifying any circumstances connected with the removal which, in his opinion, significantly affect the interests of the members or prospective members of, or beneficiaries under, the scheme; or

(b) a statement that the auditor knows of no such circumstances.

(6) When the last remaining or only auditor who was appointed to audit the accounts for a scheme–

(a) is removed by the Appointing Body;

(b) resigns; or

(c) dies,

before completing the audit of those accounts for a scheme year or part of a scheme year, the Appointing Body shall either reappoint him with his consent, or appoint one or more other auditors in his place, as soon as reasonably practicable, to audit those accounts.

(7) In a case where a statement has been made under paragraph (4) or (5), the trustees shall–

(a) furnish the next auditor whom the Appointing Body appoints with a copy of that statement on or before the day on which he is appointed, or, if it is later, on or before the fourteenth day after they receive the statement; and

(b) furnish any other auditor who is still in office with a copy of that statement on or before the fourteenth day after they receive it.

Disclosure of information by employers

4. It shall be the duty of–

(a) any employer who employs any member or prospective member of a scheme in employment to which the scheme applies, and

(b) the auditors (if any) of such an employer,

to furnish the trustees and the auditor of the scheme with such information and explanation as may reasonably be required for the performance of the duties of the auditor.

Statement in auditor's report

6. In any case where the auditor considers that he has failed to obtain all the information and explanation which, to the best of his knowledge and belief, are necessary for the purposes of his audit, he shall make a statement to that effect in his auditor's report and (so far as he knows them) give the reasons for the failure.

Service of documents

7. Any–

(a) information or document which these Regulations require any person to furnish or serve; or

(b) request for information or a document to be furnished in pursuance of these Regulations,

may be furnished, served or made by post.

Offences and penalties

8. Any person who, without reasonable excuse, contravenes or fails to comply with any requirement imposed on him by regulation 3(7), 4 or 5 shall be liable on summary conviction to a penalty not exceeding £400, or where the offence consists of continuing any such contravention or failure after conviction thereof, £40 for each day on which it is so continued.

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

Nicholas Scott
Minister of State,
25th June 1987 Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under either section 56P of the Social Security Pensions Act 1975 ("the 1975 Act") or section 54(1) of the Social Security Act 1986 ("the 1986 Act") before the expiry of the period of 12 months beginning with the bringing into force (on 6th April 1987) of section 11 of the 1986 Act (which inserted section 56P into the 1975 Act) and section 54(1) of the 1986 Act. Consequently, by virtue of section 61(5) of the 1986 Act, the provisions of section 61(2) and (3) of the 1975 Act (which, as amended by section 86(1) of, and paragraph 94 of Schedule 10 to, the 1986 Act, require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for the purposes of part III or IVC of the 1975 Act), do not apply to them.

Regulation 2 provides that these Regulations do not apply to any scheme to which Regulation 7 of the Occupational Pension Schemes (Disclosure of Information) Regulations 1986 does not apply.

Regulation 3 provides for the manner of the appointment, resignation and removal of auditors of occupational pension schemes and for the making of a statement, concerning any circumstances of his resignation or removal which affect the interest of members or prospective members of the scheme, by any such auditor when he resigns or is removed. The trustees of a scheme must furnish the next auditor who is appointed, and any remaining auditor, with any such statement.

Regulation 4 provides for the disclosure of information by employers of members and prospective members of a scheme and auditors of such employers, to the trustees or managers of the scheme and to the auditors of it.

Regulation 5 provides for the disclosure of information by trustees of a scheme to the auditors of it.

Regulation 6 provides for the making of a statement by an auditor who considers that he has failed to obtain all the information which is necessary for the purpose of his audit.

Regulation 8 provides for offenses and penalties in respect of the contraven-tion of the provisions of regulations 3(7), 4 or 5.