



STATUTORY INSTRUMENTS

S.I. No. 62 of 2009



OCCUPATIONAL PENSION SCHEMES (FUNDING STANDARD)
(AMENDMENT) REGULATIONS 2009

(Prn. A9/0284)

OCCUPATIONAL PENSION SCHEMES (FUNDING STANDARD)
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The Minister for Social and Family Affairs, in exercise of the powers conferred on her by section 5, section 42 (as amended by section 28 of the Pensions (Amendment) Act, 2002 (No. 18 of 2002)) and section 47 of the Pensions Act, 1990 (No. 25 of 1990), hereby makes the following Regulations:

Citation, Construction and Commencement.

1. (1) These Regulations may be cited as the Occupational Pension Schemes (Funding Standard) (Amendment) Regulations, 2009.

(2) The Occupational Pension Schemes (Funding Standard) Regulations 1993 to 2008 and these Regulations may be cited together as the Occupational Pension Schemes (Funding Standard) Regulations 1993 to 2009 and shall be construed together as one.

Amendments.

2. The Occupational Pension Schemes (Funding Standard) Regulations, 1993 (S.I. No 419 of 1993) are amended—

(1) in Article 3 (as amended by the Occupational Pension Schemes (Funding Standard) (Amendment) (No. 2) Regulations 1998) by substituting the following for the definition of “self-investment”—

“ “self-investment”, in relation to a scheme, means investment of all or part of the resources of the scheme in the business of any one or more of the following persons

(i) the employer of any person employed in the relevant employment,

(ii) an affiliate of the employer of any person employed in the relevant employment,

(iii) any director or shadow director (within the meaning of section 27 of the Companies Act 1990 (No. 33 of 1990)) of the employer or of an affiliate, or of an associate of any such director or shadow director,

and for this purpose “investment” shall be deemed to include investment in—

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“Iris Oifigiúil” of 27th February, 2009.*

- (I) property, other than land or buildings, which is used for the purpose of any business carried on by;
- (II) loans to;
- (III) moneys due to the scheme held by;
 - any such person referred to in paragraphs (i), (ii) or (iii) of this definition;
- (IV) shares or other securities issued by any such person referred to in paragraphs (i), (ii) or (iii) of this definition who is a body corporate,

but shall not include

- (V) investment in a cash deposit with any such person who is an authorised deposit taking institution; or
- (VI) investment in
 - (A) an insurance policy or contract of assurance issued by any such person who is the holder of an authorisation within the meaning of article 2 of the European Communities (Life Assurance) Framework Regulations, 1994 (S.I. No. 360 of 1994);
 - (B) a segregated fund or a managed fund or other collective investment fund, managed by any such person who is the holder of an authorisation issued by the Central Bank of Ireland pursuant to the Investment Intermediaries Act, 1995 (No. 11 of 1995) or any other appropriate authorisation;
 - (C) a unit trust scheme authorised by the Central Bank of Ireland under the Unit Trusts Act, 1990 (No. 37 of 1990) and managed by any such person;
 - (D) an investment company authorised by the Central Bank of Ireland under Part XIII of the Companies Act, 1990 (No. 33 of 1990);
 - (E) a collective investment scheme authorised by the Central Bank of Ireland under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2003 (S.I. No. 211 of 2003); or
 - (F) a collective investment scheme established in another Member State of the European Communities that

has been authorised in accordance with Council Directive 85/611/EEC of 20 December 1985

provided that “investment” shall be deemed to include the proportion attributable to the resources of the scheme (whether directly or through any intervening fund) of any investment in the business of any such person—

(aa) by the manager of a segregated fund or a managed fund or other collective investment fund or by a unit trust scheme, an investment company or a collective investment scheme or

(bb) which is comprised in an investment fund to which an insurance policy or contract of assurance falling within Class III or Class VII of the classes of insurance specified in Annex I to the European Communities (Life Assurance) Framework Regulations, 1994 (S.I. No. 360 of 1994) is linked;” and

(2) by substituting the following for the definition of “concentration of investment”—

“ “concentration of investment”, in relation to a scheme, means investments exceeding a stated percentage of the resources of the scheme in one undertaking and in any associate of it or in one property, or in land or buildings used for the purpose of any business carried on by any one or more of the following persons—

(i) the employer of any person employed in the relevant employment,

(ii) an affiliate of the employer of any person employed in the relevant employment,

(iii) any director or shadow director (within the meaning of section 27 of the Companies Act, 1990 (No. 33 of 1990) of the employer or of an affiliate, or of an associate of any such director or shadow director

but shall exclude investments in the following categories:

(I) Government securities;

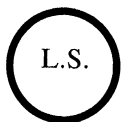
(II) insurance policies;

(III) contracts of assurance;

(IV) managed funds;

(V) unit trusts; and

(VI) cash deposits with authorised deposit taking institutions.”.



GIVEN under the Official Seal of the Minister for Social and Family
Affairs,
19 February 2009

MARY HANAFIN.
Minister for Social and Family Affairs.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations involve minor changes to the definitions of “self investment” and “concentration of investment”, the effect of which is:-

to allow lands or buildings belonging to the pension scheme to be used, let or occupied by the employer without that being considered to be self investment and to apply the concentration of investment rules to such lands or buildings instead of the self investment rules.

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