



STATUTORY INSTRUMENTS.

S.I. No. 184 of 2007



TRUST RACS (CROSS-BORDER) REGULATIONS 2007

(Prn. A7/0848)

TRUST RACS (CROSS-BORDER) REGULATIONS 2007

The Minister for Social and Family Affairs, in exercise of the powers conferred on him by sections 5, 148, 149, 151, 152 and 154 (all as amended by section 37 of the Social Welfare and Pensions Act 2007 (No. 8 of 2007)) of the Pensions Act 1990 (No. 25 of 1990) hereby makes the following Regulations:

Citation and Commencement.

1. (1) These Regulations may be cited as the Trust RACs (Cross Border) Regulations 2007.

(2) These Regulations come into operation on 27 April 2007.

Definitions.

2. In these Regulations—

“the Act” means the Pensions Act 1990 (No. 25 of 1990).

Relevant statutory requirements.

3. For the purposes of the definition of ‘relevant statutory in section 148 of the Act, the statutory provisions prescribed relevant to the field of trust RACs are, for the purposes of section 154 of the Act, Part V of the Act.

Application for authorisation.

4. An application by the trustees of a trust RAC for authorisation under section 149(2) of the Act shall include the following information—

(a) for the purposes of satisfying the Board that they comply with section 149(4)(a), a statement signed by the trustees that, where applicable, the requirements relating to-

(i) disclosure of information under Section 54 of the Act and Regulations made thereunder,

(ii) trustees under Section 59A of the Act and Regulations made thereunder

are complied with, and

(b) the Pensions Board registration number.

Authorisation of small trust RACs.

5. For the purposes of section 149(3) of the Act, sections 55, 56 and 59(1B) of the Act are prescribed in respect of small trust RACs.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 4th May, 2007.

Application of Act.

6. The provisions of the Act prescribed as relevant statutory requirements for the purposes of section 154 of the Act, shall not apply to trust RACs or trustees of trust RACs with regard to individuals in respect of whom an undertaking makes or proposes to make contributions.

Form of notification.

7. For the purposes of section 151 of the Act, the notification by the trustees of a trust RAC shall—

- (a) in addition to the information specified in section 151(2) of the Act, contain the information set out in the Schedule to these Regulations, and
- (b) provide the information referred to in paragraph (a) in—
 - (i) the English language, and
 - (ii) the language of the host Member State.

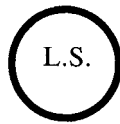
SCHEDULE

Article 7.

INFORMATION REQUIRED IN NOTIFICATION TO ACCEPT
CONTRIBUTIONS FROM UNDERTAKING

1. The date on which authorisation was granted.
2. The name, legal form, address, telephone number, fax number, and email address in the host Member State of the undertaking.
3. The name, address, telephone number, fax number, and email address of the trustees of the trust RAC.
4. The Pensions Board registration number.
5. The representative or branch name, legal form, address, telephone number, fax number and email address of the trust RAC in the host Member State, if applicable.
6. A list of the Member States in which the trust RAC is currently operating.
7. A description of the type of trust RAC to be offered to the undertaking.
8. A description of the categories of benefits to be provided under the trust RAC.
9. A description of the conditions for payment of benefits under the trust RAC.
10. A description of any guarantees offered under the trust RAC and who provides such guarantees.

11. A description of any additional coverage offered and who provides such additional coverage.
12. A description of the types of contributions paid by the undertaking and by the members.
13. A statement by the trustees that they continue to satisfy the requirements of section 149 of the Act.
14. A statement by the trustees of the estimated number of persons who are likely to become members of the trust RAC if approval in relation to the undertaking is granted by the Pensions Board.
15. Number of members (latest available information).
16. A description of the categories of the undertaking's employees that can be members of the trust RAC (if there are any restrictions).
17. Details of who is responsible for the payment of benefits.
18. Is there any external contractual based asset manager?
19. Will the assets and liabilities attributable to the IORP in the host Member State be ring-fenced as permitted by the Directive?



GIVEN under my Official Seal,
25 April 2007

SÉAMUS BRENNAN
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.)

Under the terms of Article 20 of Directive 2003/41/EC on the activities and supervision of Institutions for Occupational Retirement Provision (IORPs), undertakings based in Ireland must be allowed to make contributions to IORPs based in other European States and equally IORPs registered in Ireland must be allowed to accept contributions from undertakings located in other European States.

Section 37 of the Social Welfare and Pensions Act 2005 inserted a new Part XII into the Pensions Act to deal with such cross border schemes. Part XII deals with conditions for prior authorisation to operate as a cross border scheme and the conditions for approval to accept contributions when authorised to operate as a cross border scheme. Part XII has now been amended by the Social Welfare and Pensions Act 2007 so as to apply also to trust RACs, which are another form of IORP.

These regulations provide for—

- The disclosure of information provisions of the Pensions Act to be applied to Irish-based members of overseas trust RACs;
- The information required when an application for authorisation of a trust RAC to operate cross-border is submitted to the Board;
- Additional conditions of authorisation for trust RACs;
- The information required to be submitted to the Pensions Board once a trust RAC proposes to accept contributions from a foreign employer.

These regulations apply to trust RACs. Similar regulations have already been made in relation to occupational pension schemes.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
51 ST. STEPHEN'S GREEN, DUBLIN 2
(Tel: 01-6476834/35/36/37; Fax: 01-6476843)
or through any bookseller.

€2.54

ISBN 1-4064-1555-3



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