

STATUTORY INSTRUMENTS

S.I. No. 531 of 2008

PENSIONS ACT 1990 (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2008

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PENSIONS ACT 1990 (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2008

The Minister for Social and Family Affairs, in exercise of the powers conferred on her by section 5 (as amended by section 44 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006)) and sections 54 and, with the consent of the Minister for Finance, 55 (both as amended by section 27 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) and 57 of the Pensions Act 1990 (No. 25 of 1990) and section 64G(1)(*d*) (inserted by section 27 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of that Act, and for the purpose of giving full effect to Regulation (EC) No. 2056/2002 of the European Parliament and of the Council of 5 November 2002¹ and further effect to Article 11 of Directive 2003/41/EC of 3 June 2003², hereby makes the following Regulations:

Citation, Construction and Commencement.

- 1. (1) These Regulations may be cited as the Pensions Act 1990 (Disclosure of Information) (Amendment) Regulations 2008.
 - (2) (a) Paragraph (1), this subparagraph, paragraphs (3) and (4), Regulations 2 and 3, the Occupational Pensions Schemes (Disclosure of Information) Regulations 2006 (S.I. No. 301 of 2006) and articles 1(1) and (2)(a), 2, 3 and 4 of the Pensions Act (Disclosure Of Information) (Amendment) Regulations 2007 (S.I. No. 842 of 2007) may be cited together as the Occupational Pension Schemes (Disclosure of Information) Regulations 2006 to 2008.
 - (b) Paragraph (1), this subparagraph, paragraphs (3) and (4), Regulations 2 and 3, the Trust RACs (Disclosure of Information) Regulations 2007 (S.I. No. 182 of 2007) and articles 1(2)(b), 2 and 5 of the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007 may be cited together as the Trust RACs (Disclosure of Information) Regulations 2007 and 2008.
- (3) Regulations 3(f) and 4(e) come into operation on the commencement of section 59AA (inserted by section 28 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of the Act.
 - (4) Regulations 3(g) and (h) and 4(f)(i) come into operation on 1 July 2009.

Definition.

2. In these Regulations "Act" means the Pensions Act 1990 (No. 25 of 1990).

¹OJ No. L317, 21.11.2002, p. 1. ²OJ No. L235, 23.9.2003, p. 10.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 16th December, 2008.

Amendment of Occupational Pension Schemes Disclosure Regulations.

- 3. The Occupational Pension Schemes (Disclosure of Information) Regulations 2006 are amended—
 - (a) by substituting the following sub-article for article 12(6):
 - "(6) A Statement of Reasonable Projection DC under article 13 or 14 shall be prepared in accordance with paragraph 25(b) of Schedule D Part II.",
 - (b) in article 13—
 - (i) in sub-article (2)(b) (as amended by the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007) by substituting "1 July 2009" for "1 January 2009", and
 - (ii) in sub-article (6) (as amended by the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007) by substituting "1 July 2009" for "1 January 2009",
 - (c) in article 14(5) (as amended by the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007) by substituting "1 July 2009" for "1 January 2009",
 - (d) by inserting the following sub-article after article 16(3):
 - "(3A) In the case of a small scheme in wind up, subsections (3), (4) and (5) of section 55 of the Act shall not apply.",
 - (e) by inserting the following article after article 19:

"Information to be made available by a registered administrator.

- 20. (1) The form set out in Schedule J shall be completed and furnished to the Board within nine months of the end of the scheme year for the scheme year commencing on or after 1 January 2008 and for every scheme year thereafter by—
 - (a) the registered administrator, in relation to each scheme, apart from a death benefit only scheme, of which he, she or it is appointed as the sole registered administrator, or
 - (b) where more than one registered administrator has been appointed to a scheme, the registered administrator appointed under section 55(1A), and
 - (c) where a scheme is established otherwise than under trust, the administrator of that scheme.
- (2) The form referred to in sub-article (1) may be adapted for filing and use electronically.",

- (f) in Schedule B—
 - (i) in paragraph 12, by substituting the following sub-paragraph for sub-paragraph (a):
 - "(a) in the case of a scheme established by trust, the trustees have received training as required by section 59AA (inserted by section 28 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of the Act, and",

and

- (ii) in paragraph 15, by substituting "confirming that" for "as to whether",
- (g) in Schedule D Part I by substituting the following sub-paragraph for paragraph 1(g):
 - "(g) In respect of scheme years commencing on or after 1 July 2009, a statement of the current State Pension (Contributory) payable under the Social Welfare (Consolidation) Act 2005 to a single person who is qualified to receive the maximum amount at minimum qualifying age, together with a statement that qualification for the State Pension (Contributory) is subject to satisfying the qualifying conditions for such a payment administered by the Department of Social and Family Affairs and the address and telephone number of the information service of the Department of Social and Family Affairs.",
- (h) in Schedule D Part II—
 - (i) by substituting the following sub-paragraph for paragraph 15(d):
 - "(d) In respect of scheme years commencing on or after 1 July 2009, a statement of the current State Pension (Contributory) payable under the Social Welfare (Consolidation) Act 2005 to a single person who is qualified to receive the maximum amount at minimum qualifying age, together with a statement that qualification for the State Pension (Contributory) is subject to satisfying the qualifying conditions for such a payment administered by the Department of Social and Family Affairs and the address and telephone number of the information service of the Department of Social and Family Affairs.",
 - (ii) by substituting the following for paragraph 19:

"19. the name of the scheme and the registration number assigned to the scheme by the Pensions Board, the name of the trustees to the scheme at the date specified and contact details of the person or registered administrator designated by the trustees to deal with enquiries.", and

- (iii) by substituting the following for paragraph 25:
 - "25. (a) A Statement of Reasonable Projection DC which specifies—
 - (i) the date at which the member will attain normal pensionable age in accordance with the rules of the scheme and the reference number, if any, assigned to the scheme member,
 - (ii) the amount as at a specified date of each regular contribution proposed to be paid by the employer and the member including separately any additional voluntary contribution,
 - (iii) (I) the projected total value of the benefits payable at normal pensionable age, based on—
 - (A) the projected value, at normal pensionable age, of the contributions and transfers specified in accordance with the requirements of sub-paragraph (a)(i) of paragraph 15, and
 - (B) the projected value of those contributions proposed to be paid by the employer and the member, inclusive of any additional voluntary contributions, on the basis that the member remains in reckonable service to normal pensionable age,
 - (II) the amount of pension which could be reasonably projected to be purchased for the member in exchange for the projected total value of the benefits at sub-clause (I),
 - (III) the amounts at sub-clauses (I) and (II) in terms of current values,
 - (IV) whether or not the benefits under sub-clauses (I) and (II) are guaranteed and, if not, an explanation as to why not,

- (iv) the material assumptions as to inflation, future contributions and annuities,
- (v) the assumed rate of investment return prior to taking benefits, before deduction of all charges,
- (vi) the effect of charges,
- (vii) the importance of making adequate provision for retirement and that the purpose of the statement is to assist in planning for pension provision but that the statement does not take account of any tax related issues,
- (viii) that investments may fall as well as rise in value, and
- (ix) where the Statement of Reasonable Projection DC is being furnished in accordance with subarticle (6) of Article 13, the statement shall specify the following additional information:
 - (I) the information in paragraphs 14(a), 15(a)(i), 15(d), 18, 19 and 20 of Schedule D Part II, and
 - (II) the date of preparation of the Statement of Reasonable Projection DC,

provided that, if the statement is being produced under article 13(6)(a) to a member within 2 months of his or her becoming a member, it shall exclude the value calculated in accordance with the requirements of sub-paragraph (a)(i) of paragraph 15,",

- (b) A Statement of Reasonable Projection —DC shall be prepared—
 - (i) in compliance with the guidance note issued by the Society of Actuaries in Ireland in relation to the preparation of such statements, except where, as a result of the structure of the scheme, it is not reasonably feasible for the trustees to comply with the guidance note issued by the Society of Actuaries in Ireland in respect of projections of investment growth, projections of deductions to cover expenses and charges or projections of the cost of protection benefits, in which case, the trustees may—

- (I) adopt a different methodology in respect of those projections, provided that the trustees are satisfied that the chosen methodology provides a reasonable basis for projections of such investment growth, deductions and costs, having regard to the general purpose of the Statement of Reasonable Projection DC and provided the assumptions underlying the chosen methodology are specified, and
- (II) adopt a different methodology, to calculate the effect of charges, from that set out in the guidance note issued by the Society of Actuaries in Ireland, provided that the trustees are satisfied that the chosen methodology provides a reasonable basis for calculating the effect of charges, having regard to the general purpose of the Statement of Reasonable Projection DC and provided the assumptions underlying the chosen methodology are specified,
- (ii) using a single rate of investment return prior to taking benefits, before deduction of all charges, of not more than 6 per centum per annum, and
- (iii) using a single life annuity rate, except where, as a result of the rules of the scheme, the rules of the investment of the scheme's resources or the expected effects of legislation, an alternative assumption provides a more reasonable basis for the calculation of the annuity rate.",
- (i) by substituting the following for paragraph 13 of Schedule E:
 - "13. A Statement of Reasonable Projection DC specifying the information set out in paragraph 25 of Schedule D, Part II excluding any future contributions as set out in sub-paragraph (a)(iii)(I)(B) of that paragraph",
- (j) by inserting the following Schedule after Schedule I:

"SCHEDULE J

INFORMATION TO BE FURNISHED BY A SCHEME ADMINISTRATOR

Information			
Name of the scheme:			
Date scheme commenced:			
PB registration number:			
Scheme renewal date:			
Scheme year to which information relates:			
Scheme type:			
(please tick the category of scheme)			
Insured			
Self administered			
Scheme benefit			
(please tick the category of scheme)			
Defined contribution			
Defined benefit			
Hybrid scheme			
Scheme status			
Is the scheme a frozen scheme?		o [J Yes
Is the scheme in wind up?		o [J Yes
Give the date winding up commenced	/ /		
Are additional voluntary contributions			
being paid into the scheme?		o [J Yes
Can new members be admitted			
to the scheme?	□ N	o [J Yes
Number of scheme members Give total number of members in the scheme as	s of the last da	y of the sche	eme year:
Total number of members: D	ate		
By breakdown:	/ /		
• Active members			
• Deferred members			
• Pensioner members			

Please provide details of the value of assets held by the	ne scheme at scheme year end
	€
What were the total amount of contributions paid into	the scheme during the scheme year?
Employer	€
Employee	€
Special once off payments	€
What was the value of benefits paid out under the sch	eme during the scheme year?
Pensions	€
Lump sum	€
Death benefits	€
Transfers of preserved benefits	€
"insured" means that the benefits (other than are insured with a life assurance company; "self administered scheme" means a scheme (other than the death benefits) are not insure "special once off payments" means transfer p	where some or all of the benefits ed with a life assurance company; bayments and transfer amounts in
respect of accrued member benefits received	•
Full name of registered administrator (Note 1	1):
Principal business address:	
Email address for queries:	
Registered office address (if body corporate):	
Гelephone No:	
Signed by (Note 2):	
Print name of signatory:	

Notes on Completion of Form

GENERAL

- 1 All sections of the form must be competed in full. "None" or "Not applicable" should be entered where appropriate, but blank spaces or "to be advised" or similar responses may result in the form being rejected as incomplete.
- 2 The form is also available in electronic format from the website www.pen-sionsboard.ie.
- 3 This form should be submitted to: The Pensions Board, Verschoyle House, 28/30 Lower Mount Street, Dublin 2 or electronically, subject to such requirements as the said Board may stipulate.
- Note 1: In the case of a public sector scheme, this form should be completed by the scheme administrator instead of the registered administrator.
- Note 2: The form should be signed by the person completing it, who will normally be a member of the staff of the registered administrator or the administrator in the case of a public sector scheme.

For further information visit "www.pensionsboard.ie".

Amendment of Trust RACs Disclosure Regulations.

- 4. The Trust RACs (Disclosure of Information) Regulations 2007 are amended—
 - (a) by substituting the following sub-article for article 9(6):
 - "(6) A Statement of Reasonable Projection Trust RAC under article 10 or 11 shall be prepared in accordance with paragraph 12(b) of Schedule D.",
 - (b) in article 10—
 - (i) in sub-article (1)(b) (as amended by the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007) by substituting "1 July 2009" for "1 January 2009",
 - (ii) in sub-article (2) (as amended by the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007) by substituting "1 July 2009" for "1 January 2009",
 - (c) in article 11(2) (as amended by the Pensions Act (Disclosure of Information) (Amendment) Regulations 2007) by substituting "1 July 2009" for "1 January 2009",
 - (d) by inserting the following article after article 16:

[&]quot;Information to be made available by a registered administrator."

- 17. (1) The form set out in Schedule I to these Regulations shall be completed and furnished to the Board within nine months of the end of the trust RAC year for the trust RAC year commencing on or after 1 January 2008 and for every trust RAC year thereafter by—
 - (a) the registered administrator in relation to each trust RAC, other than a small trust RAC, of which he, she or it is appointed as the sole registered administrator, or
 - (b) where more than one registered administrator has been appointed to a trust RAC, the registered administrator appointed under section 55(1A).
- (2) The form referred to in sub-article (1) may be adapted for filing and use electronically.",
- (e) in Schedule B—
 - (i) in paragraph 10, by substituting the following sub-paragraph for sub-paragraph (a):
 - "(a) in the case of a scheme established by trust, the trustees have received training as required by section 59AA (inserted by section 28 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of the Act, and",

and

- (ii) in paragraph 13, by substituting "confirming that" for "as to whether",
- (f) in Schedule D—
 - (i) by substituting the following sub-paragraph for paragraph 2(c):
 - " (c) In respect of trust RAC years commencing on or after 1 July 2009, a statement of the current State Pension (Contributory) payable under the Social Welfare (Consolidation) Act 2005 to a single person who is qualified to receive the maximum amount at minimum qualifying age, together with a statement qualification for the State Pension that (Contributory) is subject to satisfying the qualifying conditions for such a payment administered by the Department of Social and Family Affairs and the address and telephone number of the information service of the Department of Social and Family Affairs.",

- (ii) by substituting the following for paragraph 6:
 - "6. The name of the trust RAC and the registration number assigned to the trust RAC by the Pensions Board, the name of the trustees to the trust RAC at the date specified and contact details of the person or registered administrator designated by the trustees to deal with enquiries.", and
- (iii) by substituting the following for paragraph 12:
 - " 12. (a) A Statement of Reasonable Projection Trust RAC, which specifies—
 - (i) the normal pensionable age of the member concerned and the reference number, if any, assigned to the trust RAC member,
 - (ii) the amount as at a specified date of each regular contribution proposed to be paid by or on behalf of the member,
 - (iii) (I) the projected total value of the benefits payable at normal pensionable age, based on—
 - (A) the projected value of the contributions and transfers specified at subparagraph
 (a)(i) of paragraph 2 at normal pensionable age, and
 - (B) the projected value of those contributions proposed to be paid by or on behalf of the member on the basis that the member remains a member of the trust RAC to normal pensionable age,
 - (II) the amount of pension which could be reasonably projected to be purchased for the member in exchange for the total projected value of the benefits at sub-clause (I),
 - (III) the amounts at sub-clauses (I) and (II) in terms of current values,
 - (IV) whether or not the benefits under sub-clauses (I) and (II) are guaranteed and if not, an explanation as to why not,
 - (iv) the material assumptions as to inflation, future contributions and annuities,

- (v) the assumed rate of investment return prior to taking benefits, before deduction of all charges,
- (vi) the effect of charges,
- (vii) the importance of making adequate provision for retirement and that the purpose of the statement is to assist in planning for pension provision but that the statement does not take account of any tax related issues,
- (viii) that investments may fall as well as rise in value, and
- (ix) where the Statement of Reasonable Projection
 —Trust RAC is being furnished in accordance with sub-article (2) of article 10, the statement shall specify the following additional information:
 - (I) the information in paragraphs 1(a), 2(c), 5, 6 and 7 of Schedule D, and
 - (II) the date of the Statement of Reasonable Projection Trust RAC,

provided that if the statement is being produced under subarticle (2)(a) of article 10 to a member within 2 months of his or her becoming a member it shall exclude the value expressed at sub-paragraph (a)(i) of paragraph 2 of Schedule D.

- (b) A Statement of Reasonable Projection —Trust RAC shall be prepared—
 - (i) in compliance with the guidance note issued by the Society of Actuaries in Ireland in relation to the preparation of such statements, except where, as a result of the structure of the trust RAC, it is not reasonably feasible for the trustees to comply with the guidance note issued by the Society of Actuaries in Ireland in respect of projections of investment growth, projections of deductions to cover expenses and charges or projections of the cost of protection benefits, in which case, the trustees may—
 - (I) adopt a different methodology in respect of those projections, provided that the trustees are satisfied that the chosen methodology provides a reasonable basis for projections of such investment growth, deductions and costs, having regard to the general purpose

- of the Statement of Reasonable Projection Trust RAC and provided the assumptions underlying the chosen methodology are specified, and
- (II) adopt a different methodology, to calculate the effect of charges, from that set out in the guidance note issued by the Society of Actuaries in Ireland, provided that the trustees are satisfied that the chosen methodology provides a reasonable basis for calculating the effect of charges, having regard to the general purpose of the Statement of Reasonable Projection Trust RAC and provided the assumptions underlying the chosen methodology are specified,
- (ii) using a single rate of investment return prior to taking benefits, before deduction of all charges, of not more than 6 per centum per annum, and
- (iii) using a single life annuity rate, except where, as a result of the rules of the trust RAC, the rules of the investment of the trust RAC's resources or the expected effects of legislation, an alternative assumption provides a more reasonable basis for the calculation of the annuity rate.",
- (g) by substituting the following for paragraph 6 of Schedule E:
 - "6. A Statement of Reasonable Projection Trust RAC specifying the information set out in paragraph 12 of Schedule D excluding any future contributions as set out in sub-paragraph (a)(iii)(I)(B) of that paragraph.",

and

(h) by inserting the following Schedule after Schedule H:

"SCHEDULE I

INFORMATION TO BE FURNISHED BY A REGISTERED ADMINISTRATOR OF A TRUST RAC

Information			
Name of the trust RAC:			
PB registration number:			
Trust RAC renewal date:			
Trust RAC year to which information relates:			
Trust RAC type:			
(please tick the category of scheme)			
Insured			
Self administered			
Trust RAC Benefit			
(please tick the category of trust RAC)			
Trust Retirement Annuity Contracts (DC benefit)			
or			
Other benefit (provide details)			
Trust RAC status			
Is the trust RAC in wind up?	□ No □ Yes		
Give the date winding up commenced	/ /		
Can new members be admitted			
to the trust RAC?	No □ □ Yes		
Number of trust RAC members			
Give the total number of members in the trust RAC	C as of the last day of the trust RAC year		
Total number of members: Date:			
	7		
Please provide details of the value of assets held by	the trust RAC at the end of the trust		
RAC year			
	€		
What were the total amount of contributions paid into the trust RAC during the trust RAC			
year?			
	€		

What was the value of the benefits paid out under the trust RAC during the trust RAC year?				
Pensions	€			
Lump sum	€			
Death benefits	€			
Transfers of accrued rights	€			

"insured" means that the benefits (other than the death benefits) of the trust RAC are insured with a life assurance company;

"self administered trust RAC" means a trust RAC where some or all of the benefits (other than the death benefits) are not insured with a life assurance company.

Full name of registered administrator:
Principal business address:
Email address for queries:
Registered office address (if body corporate):
Telephone no:
Totophone no.
Signed by (Note 1):
Print name of signatory:

Notes on Completion of Form

GENERAL

- 1 All sections of the form must be competed in full. "None" or "Not applicable" should be entered where appropriate, but blank spaces or "To be advised" or similar responses may result in the form being rejected as incomplete.
- 2 The form is also available in electronic format from the website www.pensionsboard.ie.
- 3 This form should be submitted to: The Pensions Board, Verschoyle House, 28/30 Lower Mount Street, Dublin 2 or electronically, subject to such requirements as the said Board may stipulate.

Note 1: The form should be signed by the person completing it, who will normally be a member of the staff of the registered administrator.

For further information visit "www.pensionsboard.ie".

The Minister for Finance consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Finance, 5 December 2008

BRIAN LENIHAN. Minister for Finance.



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

11 December 2008

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.)

This Regulation amends the Occupational Pension Schemes (Disclosure of Information) Regulations 2006 (S.I. No. 301 of 2006) and the Trust RACs (Disclosure of Information) Regulations 2007 (S.I. No. 182 of 2007).

The following amendments have been made to S.I. No. 301 of 2006:-

Article 12(6) is amended to provide that the statement of reasonable projection-DC should be prepared in accordance with paragraph 25(b) of Schedule D Part II of this Regulation.

The entry into force of the requirement to provide a statement of reasonable projection has been deferred to 1 July 2009.

A new article 16(3A) is inserted which provides that where a small scheme in wind up prepares an Annual report, it does not have to include any actuarial statement regarding satisfaction of the funding standard.

A new Article 20 is inserted requiring the scheme administrator to furnish information specified in Schedule J to the Board within 9 months of the end of each scheme year for scheme years commencing on or after 1 January 2008. The Schedule J information is required by Eurostat under Regulation (EC) No. 2056/2002.

Schedule B is amended to require the trustees to confirm in the annual report that they have received trustee training in line with the requirements of section 59AA of the Act and to confirm that they have access to the latest edition of the Board's trustee training handbook and the Pensions Board Guidance notes.

Schedule D Parts I and II are amended in paragraphs 1(g) and 15(d) to require the maximum amount of the current State Pension (Contributory) to be stated.

Paragraph 25 of Schedule D Part II is amended to specify the information required to be specified in the Statement of Reasonable Projection — DC as part of the annual Member Benefit Statement and to specify the additional information which must be furnished where the Statement of Reasonable Projection — DC is furnished otherwise than as part of the annual Member Benefit Statement.

Similar changes, where appropriate, have been made to the Trust RACs (Disclosure of Information) Regulations 2007 (S.I. No. 182 of 2007).

BAILE ÁTHA CLIATH ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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