



STATUTORY INSTRUMENTS.

S.I. No. 186 of 2007



TRUST RACS (TRUSTEE) REGULATIONS 2007

(Prn. A7/0850)

TRUST RACS (TRUSTEE) REGULATIONS 2007

The Minister for Social and Family Affairs, in exercise of the powers conferred on him by sections 5 and 59A (both 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 (Trustee) 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);

“investment manager” means—

- (a) an investment firm authorised in accordance with Council Directive 93/22/EEC of 10 May 1993¹ by a competent authority where the firm’s authorisation permits it to engage in the proposed activities as an investment manager; and
- (b) an insurance undertaking authorised to transact insurance business in the State, whether by establishment, branch or provision of services, that falls within any of the Classes of Insurance I, III or VII as set out in the Annex to the Council Directive 79/267/EEC of 5 March 1979²; and
- (c) a credit institution within the meaning of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000, relating to the take up and pursuit of the business of credit institutions.

Qualifications and experience of trustees.

3. (1) Trustees of a trust RAC shall possess, or employ or enter into arrangements with advisers who possess, qualifications and experience appropriate and relevant to investment of the resources of the trust RAC.

(2) Subject to sub-article (3), trustees of a trust RAC must satisfy the Board, in the manner for the time being approved by the Board, that they possess

¹OJ L 141,11.6.1993, p.27

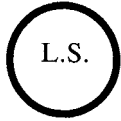
²OJ L 63,13.3.1979, p.1

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

or have employed or entered into arrangements with advisers who possess the qualifications and experience specified in sub-article (1).

(3) The trustees of a trust RAC will be regarded as possessing such qualifications and experience if they enter into a contractual arrangement with one or more investment manager to provide an investment service in respect of the investment of the resources of the trust RAC.

4. Where the requirements of article 3 of these Regulations are met by at least one trustee of the trust RAC, then all trustees of that trust RAC shall be regarded as satisfying such requirements.



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.)

Article 9 of Directive 2003/41/EC on the activities and supervision of Institutions for Occupational Retirement Provision (IORPs), requires that IORPs registered in Ireland must fulfil a number of minimum conditions, such as being run by people of good repute who have appropriate qualifications and experience.

Section 59A of the Pensions Act 1990 (inserted by section 34 of the Social Welfare and Pensions Act 2005 and amended by section 37 of the Social Welfare and Pensions Act 2007) specifies what constitutes good repute and requires that trustees of pension schemes and trust RACs either possess certain experience and qualifications or enter into arrangements with advisers who possess the qualifications and experience specified.

These regulations provide that the experience and qualifications necessary relate to the investment of the resources of the trust RAC and determine that only one trustee of a relevant trust RAC need possess such experience and qualifications to satisfy the requirements for all trustees of that trust RAC. Similar regulations have already been made in relation to occupational pension schemes.

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