



STATUTORY INSTRUMENTS.

S.I. No. 204 of 2012



THE OCCUPATIONAL PENSION SCHEMES (CROSS-BORDER)
(AMENDMENT) REGULATIONS, 2012

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I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 5, and 148, 149, 151, 152 and 154 (inserted by section 37 of the Social Welfare and Pensions Act, 2005 (No. 4 of 2005)) of the Pensions Act 1990 (No. 25 of 1990) hereby make the following Regulations:

Citation.

1. (1) These Regulations may be cited as the Occupational Pension Schemes (Cross-Border) (Amendment) Regulations, 2012.

(2) The Occupational Pension Schemes (Cross-Border) Regulations, 2006 (S.I. No. 292 of 2006) and these Regulations shall be construed together as one and may be cited together as the Occupational Pension Schemes (Cross-Border) Regulations, 2006 and 2012.

Amendments.

2. The Occupational Pension Schemes (Cross-Border) Regulations, 2006 (S.I. No 292 of 2006) are amended-

(a) In Article 2 by substituting “section 2” for “section 40” in the definition of “relevant scheme”;

(b) by substituting the following for Article 5(b)—

“(b) where applicable, an actuarial funding certificate and a funding standard reserve certificate as provided for in article 6, and”; and

(c) by substituting the following for Article 6—

“6 (1) Subject to sub-articles (2) and (2A), the condition of authorisation prescribed in the case of a relevant scheme for the purposes of section 149(4)(b) of the Act is that the scheme is deemed to have satisfied

(a) the funding standard in accordance with section 44(1), and

(b) on or after 1 January 2016, the funding standard reserve in accordance with section 44(2).

(2) In the case of a relevant scheme which was accepting contributions from an undertaking on 22 September 2005, and which at the date of application for authorisation is not deemed to have satisfied

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“Iris Oifigiúil” of 15th June, 2012.*

the funding standard in accordance with section 44(1) and where the actuary to the scheme has certified, prior to the date of the grant of authorisation—

- (a) that the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate, or
- (b) by any later date specified by the Pensions Board under section 49(3),

the condition in paragraph (a) sub-article (1) shall not apply until the earlier of the following dates—

- (i) where applicable, the effective date referred to in paragraph (a), or
- (ii) where applicable, the later date referred to in paragraph (b) or
- (iii) the date on which the scheme is deemed to satisfy the funding standard in accordance with section 44(1).

(2A) In the case of a relevant scheme which is accepting contributions from an undertaking on 31 December 2015, and which at that date is not deemed to have satisfied the funding standard reserve in accordance with section 44(2) and where the actuary to the scheme has certified prior to 1 January 2016—

- (a) that the scheme could reasonably be expected to satisfy the funding standard reserve at the effective date of the next funding standard reserve certificate, or
- (b) by any later date specified by the Pensions Board under section 49(3B),

the condition in paragraph (b) sub-article (1) shall not apply until the earlier of the following dates—

- (i) where applicable, the effective date referred to in paragraph (a), or
- (ii) where applicable, the later date referred to in paragraph (b) or
- (iii) the date on which the scheme is deemed to satisfy the funding standard reserve in accordance with section 44(2).

(3) In the case of a new scheme which is a relevant scheme, the trustees shall provide—

- (a) where approval is granted under section 151 of the Act prior to 1 January 2016 and the new scheme has members before that date, an actuarial funding certificate under section 42 of the Act, and
- (b) in any other case, an actuarial funding certificate and a funding standard reserve certificate under section 42 of the Act

by the expiry of the period of two years beginning on the date on which approval is granted under section 151 of the Act.

(4) In the case of a relevant scheme (other than a scheme to which sub-article (2) applies) where the most recent annual report prepared under section 55 of the Act does not include a statement required under subsection (3) of that section in relation to the funding standard, or contains the statement but the actuary does not state therein that he is reasonably satisfied that, if he were to prepare an actuarial funding certificate under section 42 of the Act having an effective date of the last day of the period to which the annual report relates, he would certify that the scheme satisfies the funding standard provided for in section 44(1) of the Act, the trustees shall provide an actuarial funding certificate satisfying the funding standard, with an effective date within the twelve month period prior to the date on which the application for authorisation was made.

(4A) In the case of a relevant scheme (other than a scheme to which sub-article (2A) applies) where the most recent annual report prepared under section 55 of the Act having, as the last day of the period to which it relates, a day falling on or after 1 January 2016 does not include a statement required under subsection (3) of that section in relation to the funding standard reserve, or contains the statement but the actuary does not state therein that he is reasonably satisfied that, if he were to prepare a funding standard reserve certificate under section 42 of the Act having an effective date of the last day of the period to which the annual report relates, he would certify that the scheme satisfies the funding standard reserve provided for in section 44(2) of the Act, the trustees shall provide a funding standard reserve certificate satisfying the funding standard reserve, with an effective date within the twelve month period prior to the date on which the application for authorisation was made.”, and

(d) by inserting the following after paragraph 20 in the Schedule—

“21. On or after 1 June 2012, the most recent funding standard reserve certificate for the scheme (where applicable).”.



GIVEN under my Official Seal,
12 June 2012.

JOAN BURTON,
Minister for Social Protection.

EXPLANATORY NOTE

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

These Regulations amend the Occupational Pension Schemes (Cross-Border) Regulations, 2006 to provide that in order for a scheme to be authorised to operate as a cross-border scheme, the scheme must comply with the funding standard reserve requirement under the Pensions Act.

BAILE ÁTHA CLIATH
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CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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