



2000 CHAPTER 4

PART II

PENSIONS

CHAPTER II

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Selection of trustees and of directors of corporate trustees

Member-nominated trustees

39.—(1) Article 16 of the Pensions Order (requirement for member-nominated trustees) shall be amended in accordance with subsections (2) to (8).

(2) In paragraph (1)—

(a) the words “(subject to Article 17)” and in sub-paragraph (b), the words “, and the appropriate rules,” shall cease to have effect; and

(b) in sub-paragraph (a), for “persons selected” there shall be substituted “the selection of persons nominated”.

(3) In paragraph (3)(a), for “in accordance with the appropriate rules” there shall be substituted “as a member-nominated trustee”.

(4) In paragraph (4), for “the appropriate rules” there shall be substituted “regulations”.

(5) In paragraph (5), after “six years” there shall be inserted “but for a member-nominated trustee to be eligible for selection again at the end of any period of service as such a trustee”.

(6) After paragraph (6) there shall be inserted—

“(6A) The arrangements must provide that, where the employer so requires, a person who is not a qualifying member of the scheme must have the employer’s approval to qualify for selection as a member-nominated trustee.”.

(7) In paragraph (8)—

(a) for “The arrangements must” there shall be substituted “The arrangements—

(a) must”; and

(b) after “that fact” there shall be inserted “; and

(b) may provide for a member-nominated trustee who—

(i) is a qualifying member of one of the following descriptions, that is to say, an active, deferred or pensioner member, and

(ii) ceases (without ceasing to be a qualifying member) to be a qualifying member of that description,

to cease, by virtue of that fact, to be a trustee”.

(8) After paragraph (8) there shall be added—

“(9) Regulations may make provision in relation to arrangements under this Article—

(a) supplementing the requirements of this Article as to the matters to be contained in the arrangements, and

(b) providing for the manner in which, and the time within which, persons are, for the purposes of the arrangements, to be nominated and selected as member-nominated trustees.

(10) This Article does not apply in the case of a trust scheme if—

(a) every member of the scheme is a trustee of the scheme and no other person is such a trustee,

(b) every trustee of the scheme is a company, or

(c) the scheme is of a prescribed description.”.

(9) Article 17 of that Order (exceptions) shall cease to have effect.

Corporate trustees

40.—(1) Article 18 of the Pensions Order (corporate trustees: member-nominated directors) shall be amended in accordance with subsections (2) to (9).

(2) In paragraph (1)—

(a) for the words from “and the employer” to “satisfied” there shall be substituted “and there is no trustee of the scheme who is not a company”;

(b) the words “, subject to Article 19” and in sub-paragraph (b), the words “, and the appropriate rules,” shall cease to have effect; and

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- (c) in sub-paragraph (a), for “persons selected” there shall be substituted “the selection of persons nominated”.
- (3) In paragraph (3)(a), for “in accordance with the appropriate rules” there shall be substituted “as a member-nominated director”.
- (4) In paragraph (4), for “the appropriate rules” there shall be substituted “regulations”.
- (5) In paragraph (5), after “six years” there shall be inserted “but for a member-nominated director to be eligible for selection again at the end of any period of service as such a director”.
- (6) After paragraph (6) there shall be inserted—
- “(6A) The arrangements must provide that, where the employer so requires, a person who is not a qualifying member of the scheme must have the employer’s approval to qualify for selection as a member-nominated director.”.
- (7) In paragraph (7)—
- (a) for “The arrangements must” there shall be substituted “The arrangements—
- (a) must”; and
- (b) after “that fact” there shall be inserted “; and
- (b) may provide for a member-nominated director who—
- (i) is a qualifying member of one of the following descriptions, that is to say, an active, deferred or pensioner member, and
- (ii) ceases (without ceasing to be a qualifying member) to be a qualifying member of that description,
- to cease, by virtue of that fact, to be a director”.
- (8) For paragraph (8) there shall be substituted—
- “(8) Where—
- (a) the same company is a trustee of two or more schemes by reference to each of which this Article applies to the company, and
- (b) the company does not, in the prescribed manner, elect that this paragraph should not apply,
- the preceding provisions of this Article and Article 21(7) shall have effect as if those schemes were a single scheme and the members of each of the schemes were members of that single scheme.”.
- (9) After paragraph (8) there shall be added—
- “(9) Regulations may make provision in relation to arrangements under this Article—

- (a) supplementing the requirements of this Article as to the matters to be contained in the arrangements, and
- (b) providing for the manner in which, and the time within which, persons are, for the purposes of the arrangements, to be nominated and selected as member-nominated directors.

(10) This Article does not apply in the case of a trust scheme if the scheme is of a prescribed description.”.

(10) Articles 19 and 20 of that Order (corporate trustees: exceptions and selection, and eligibility, of member-nominated trustees and directors) shall cease to have effect.

Employer’s proposals for selection of trustees or directors

41.—(1) After Article 18 of the Pensions Order there shall be inserted—

“Further provisions about the selection of trustees and directors

Employer’s proposals for selection of trustees or directors

18A.—(1) Where, in the case of any trust scheme—

- (a) the employer makes proposals for the adoption of arrangements for the nomination and selection of the trustees of the scheme,
- (b) the proposed arrangements comply with all the requirements of Article 16 and do not contain anything inconsistent with those requirements,
- (c) the proposed arrangements comply with such other requirements as may be prescribed,
- (d) the proposed arrangements are approved under such procedure for obtaining the views of members of the scheme as may be prescribed, and
- (e) such other conditions are satisfied as may be prescribed,

the trustees of the scheme shall secure that the proposed arrangements are made and implemented.

(2) Where, in the case of any company which is trustee of a trust scheme of which there is no trustee who is not a company—

- (a) the employer makes proposals for the adoption of arrangements for the nomination and selection of the directors of the company,
- (b) the proposed arrangements comply with all the requirements of Article 18 and do not contain anything inconsistent with those requirements,

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- (c) the proposed arrangements comply with such other requirements as may be prescribed,
- (d) the proposed arrangements are approved under such procedure for obtaining the views of members of the scheme as may be prescribed, and
- (e) such other conditions are satisfied as may be prescribed,

the company shall secure that the proposed arrangements are made and implemented.

(3) Arrangements made and implemented under this Article may include provision that is different from that for which provision is made by regulations under Article 16(9) or 18(9).

(4) Regulations may make provision—

- (a) as to the manner in which, and the time within which, arrangements proposed and approved for the purposes of this Article are to be implemented by the trustees of a trust scheme or by a company which is a trustee of a trust scheme, and
- (b) as to what is to happen where an approval for the purposes of this Article of any arrangements ceases, in accordance with regulations, to have effect.

(5) Regulations about the manner in which anything is approved for the purposes of this Article may provide—

- (a) for it to be treated as approved in accordance with the prescribed procedure where the Authority determine that prescribed conditions have been satisfied in relation to any departures from that procedure that have occurred, and
- (b) for persons who do not object to it to be treated as having approved it.

(6) Regulations may provide that, for the purposes of this Article and any arrangements under this Article, arrangements are to be taken as complying with the requirements of Article 16 or 18, and as being consistent with those requirements, notwithstanding that nominations made for the purposes of the arrangements by a person or organisation which—

- (a) represents for any particular purposes the interests of persons who are comprised in the membership of the scheme in question, and
- (b) is of such a description as is specified in the regulations,

are to be treated under the arrangements as nominations, or as the only nominations, made by qualifying members of the scheme.

(7) Provision made by or under the preceding provisions of this Article with respect to member-nominated trustees does not apply in the case of a trust scheme if—

(a) every member of the scheme is a trustee of the scheme and no other person is such a trustee, or

(b) every trustee of the scheme is a company.

(8) Provision made by or under the preceding provisions of this Article does not apply if the scheme is of a prescribed description.”.

(2) In Article 68(2)(b) of that Order (power of trustees to modify schemes by resolution), for “17(2)” there shall be substituted “18A(1)”.

(3) In Article 114(2)(c) of that Order (overriding requirements), for “17(2)” there shall be substituted “18A(1)”.

Non-compliance in relation to arrangements or proposals

42.—(1) In Article 21 of the Pensions Order (member-nominated trustees and directors: supplementary)—

(a) in paragraph (1), for “17(2)”, in both places, there shall be substituted “18A(1)”;

(b) in paragraphs (1) and (2), the words “, or the appropriate rules,” shall cease to have effect;

(c) in paragraph (2), for “19(2)”, in both places, there shall be substituted “18A(2)”;

(d) in paragraph (3), for “17(2), 18(1) or 19(2)” there shall be substituted “18(1) or 18A(1) or (2)” and the words “(or further arrangements)” in sub-paragraph (a), sub-paragraph (b) and the word “and” immediately preceding it shall cease to have effect;

(e) paragraph (4) shall cease to have effect;

(f) in paragraph (5), for “20” there shall be substituted “18A”;

(g) in paragraph (6), for “17 to 20” there shall be substituted “16 and 18” and the words “and this Article”, sub-paragraph (b) and the word “and” immediately preceding it shall cease to have effect;

(h) in paragraph (7)(a), for the words from “of the appropriate” to “given” there shall be substituted “for the purposes of Article 18A of proposed arrangements must be given, in accordance with regulations under that Article,”; and

(i) in paragraph (7), sub-paragraph (b) and the word “and” immediately preceding it shall cease to have effect.

(2) In paragraph (1) of that Article, after sub-paragraph (b) there shall be inserted “or

(c) regulations under Article 16(9)(b) have not been complied with,”.

(3) In paragraph (2) of that Article, after sub-paragraph (b) there shall be inserted “or

(c) regulations under Article 18(9)(b) have not been complied with.”.

(4) After paragraph (2) of that Article there shall be inserted—

“(2A) Article 10 applies to an employer who has made a proposal for the purposes of Article 18A but who contravenes any requirements of any regulations under Article 18A relating to the submission of that proposal for approval.”.

(5) After paragraph (5) there shall be inserted—

“(5A) In Articles 16 to 18A “company” means a company within the meaning given by Article 3(1) of the Companies (Northern Ireland) Order 1986 or a company which may be wound up under Part VI of the Insolvency (Northern Ireland) Order 1989 (unregistered companies).”.