

2000 No. 3198

PENSIONS

The Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000

Made - - - - - *5th December 2000*

Laid before Parliament *8th December 2000*

Coming into force - - *31st December 2000*

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 6, 113(1), 168(1) and (4), 175, 181(1) and (4), 182(2) and (3), 183(1) and 192(2) of the Pension Schemes Act 1993(a) and sections 10(3), 17(4)(b), 19(4), 27(5)(b), 35(7), 37(10), 40(1) and (2), 41(1) and (6), 47(5), 49(2), 50(7), 56(2)(b), 68(6), 69(6), 75(9), 76(8), 81(2), 87(1), 89(2), 118(2), 124(1), 125(3) and (4) and 174(2) and (3) of the Pensions Act 1995(b), and of all other powers enabling him in that behalf, having consulted with such persons as he considered appropriate(c), hereby makes the following Regulations:

Citation, extent, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000 and shall come into force on 31st December 2000.

(2) Regulation 11 of these Regulations, and this regulation, in so far as it applies to that regulation, extend to Northern Ireland.

(3) In these Regulations—

“the 1995 Act” means the Pensions Act 1995(d);

“Republic of Ireland scheme” means an occupational pension scheme established in the Republic of Ireland under an irrevocable trust which has, or has had, at least one member in pensionable service in Great Britain or which has at least one member who has pension credit rights(e), and which is a scheme—

(a) that is wholly or mainly administered in the Republic of Ireland;

(b) to which section 611(3) of the Income and Corporation Taxes Act 1988(f) (split approved schemes) applies and which has been approved by the Commissioners of the Inland Revenue under any provisions of that Act relating to the approval of occupational pension schemes for the purpose of tax or which has applied for such approval and whose application has not yet been determined; and

(a) 1993 c. 48. Section 168 was substituted by section 155 of the Pensions Act 1995 (c. 26). Section 175 was amended by section 165 of the Pensions Act 1995. Section 181(1) is cited for the meaning given to “prescribe” and “regulations”.

(b) 1995 c. 26. Section 49 was amended by paragraph 12 of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 124(1) is cited for the meaning given to “prescribed” and “regulations”.

(c) See section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995 for the requirement to consult. Section 185(1) of the Pensions Schemes Act 1993 was amended by paragraph 80 of Schedule 5 to the Pensions Act 1995.

(d) 1995 c. 26.

(e) See section 124(1) of the Pensions Act 1995 as amended by paragraph 61(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30).

(f) 1988 c. 1.

- (c) which has been approved under any provisions in force under the law of the Republic of Ireland relating to the approval of occupational pension schemes for the purposes of tax or which has applied for such approval and whose application has not yet been determined;

“member” in relation to a Republic of Ireland scheme, means—

- (a) a person who is in pensionable service under the scheme (which for the purposes of these regulations includes a person who is in pensionable service under a secondment); or
- (b) a person (other than one who is in pensionable service) who has accrued rights to benefit under the scheme either by virtue of pensionable service under the scheme or by virtue of a transfer credit or a pension credit; or
- (c) a person who is entitled to the present payment of pension or other benefits under the scheme; and

“the Schedule” means the Schedule to these Regulations.

Exemption of Republic of Ireland schemes—general provision

2. Where a Republic of Ireland scheme has at least one member who is, or has been, in pensionable service under the scheme in the Republic of Ireland, it shall be—

- (a) exempt from the requirements of any provision of the 1995 Act which is listed in the Schedule; and
- (b) subject to the exemptions from the requirements of any regulations which are provided for by regulations 6 to 12 of these Regulations.

Exemption of Republic of Ireland schemes from section 27 of the 1995 Act

3. For the purposes of section 27 of the 1995 Act (trustees not to be auditor or actuary of the scheme), references in that section to a trustee of a trust scheme shall not include a trustee of any scheme which is a Republic of Ireland scheme within the meaning of these Regulations.

Information to be given to members

4.—(1) The trustees or managers of a Republic of Ireland scheme shall,—

- (a) in relation to any member who is resident in Great Britain on the date on which these Regulations come into force, or who becomes resident in Great Britain after that date, notify that person in writing within the period of 12 months commencing on that date, or within the period of 12 months commencing on the date on which the member became resident in Great Britain, whichever is the later; and
- (b) in relation to any person who is resident in Great Britain and who becomes a member of the Republic of Ireland scheme after the date on which these Regulations come into force, notify that person in writing within the period of 2 months commencing on the date on which that person became a member of the scheme,

that the scheme is a Republic of Ireland scheme within the meaning of these Regulations and that it is exempt, as provided for by these Regulations, from the regulatory requirements of the 1995 Act or of any regulations.

(2) Any information which the trustees or managers of a Republic of Ireland scheme are required to provide under paragraph (1) of this regulation to a member who is not employed in any employment to which the scheme relates shall be treated as having been provided by them if it was sent by post to that member at his last known address.

Penalties

5. Where any person fails, without reasonable cause, to comply with any of the requirements imposed by regulation 4 of these Regulations, the Occupational Pensions Regulatory Authority may require that person to pay, within the period ending 28 days after the date of its imposition, a penalty which shall—

- (a) in the case of an individual not exceed £1,000; and
- (b) in any other case not exceed £10,000.

Amendment of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996

6.—(1) The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996(a) shall be amended as follows.

(2) After sub-paragraph (n) of regulation 4(1) (exemptions from member-nominated trustee requirements), there shall be inserted the following sub-paragraph:

“(o) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000.”.

(3) After sub-paragraph (o) of regulation 6(1) (exemptions from member-nominated director requirements), there shall be inserted the following sub-paragraph:

“(p) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000.”.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

7. In regulation 2(2) of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (application of the Regulations)(b) after sub-paragraph (a) there shall be inserted the following sub-paragraph:

“(aa) which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000;”.

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996

8. In regulation 12(2) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (requirement for trustees to keep books and records)(c), after the words “descriptions referred to in regulation 3(1)(c), (f), (g) and (i)”, there shall be inserted the words “or to a scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000”.

Amendment of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996

9. After paragraph (2) of regulation 2 of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (requirement of trustees or managers to obtain documents)(d), there shall be inserted the following paragraph:

“(2A) The requirement to obtain accounts in accordance with paragraph (1)(a) or an auditor’s statement in accordance with paragraph (1)(b) shall not apply to any scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000.”.

Amendment of the Occupational Pension Schemes (Investment) Regulations 1996

10.—(1) The Occupational Pension Schemes (Investment) Regulations 1996(e) shall be amended in accordance with the following paragraphs of this regulation.

(2) After sub-paragraph (b) of regulation 2(2) (schemes to which regulation 5 of the Regulations does not apply) there shall be inserted the following sub-paragraph:

“(c) which are Republic of Ireland schemes within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000.”.

(a) S.I. 1996/1216; regulation 4 was amended by regulation 30(2)(b) of S.I. 2000/1043 and regulation 6(1) was amended by regulations 5(6)(a) of S.I. 1997/786 and 30(3) of S.I.2000/1043.

(b) S.I. 1996/1655; regulation 2 was amended by paragraph 10(3) of the Schedule to S.I.1997/786.

(c) S.I.1996/1715, to which there are no relevant amendments.

(d) S.I.1996/1975, to which there are no relevant amendments.

(e) S.I.1996/3127; regulation 2 was amended by regulation 2 of S.I.1999/1849 and regulation 10 was amended by regulation 2(4)(a) of S.I.1999/1849.

(3) After sub-paragraph (c) of regulation 10(3) (exemptions from section 35 of the 1995 Act) there shall be inserted the following sub-paragraph—

“(cc) a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000;”.

Amendment of the Register of Occupational and Personal Pension Schemes Regulations 1997

11. After paragraph (3) of regulation 1 of the Register of Occupational and Personal Pension Schemes Regulations 1997 (citation, extent, commencement and interpretation)(a), there shall be inserted the following paragraph:

“(3A) Regulations 2 to 6 and 8 and 9 of these Regulations do not apply to any scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000 or within the meaning of any regulations which make corresponding provision which are in force in Northern Ireland.”.

Amendment of the Occupational and Personal Pension Schemes (Levy) Regulations 1997

12. After paragraph (2) of regulation 1 of the Occupational and Personal Pension Schemes (Levy) Regulations 1997 (citation, commencement and interpretation)(b), there shall be inserted the following paragraph:

“(3) These Regulations do not apply to any scheme which is a Republic of Ireland scheme within the meaning of the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000.”.

Signed by authority of the Secretary of State for Social Security.

5th December 2000.

Jeff Rooker
Minister of State,
Department of Social Security

(a) S.I. 1997/371.

(b) S.I.1997/666, to which there are no relevant amendments.

SCHEDULE

Regulation 2

Legislation from which Republic of Ireland Schemes are Exempt

<i>Provision of the 1995 Act</i>	<i>Purpose of provision</i>
—section 16	Member-nominated trustees
—section 18	Member-nominated directors
—sections 22 to 26	Independent Trustees
—section 37	Payment of surplus to employer
—section 47	Professional advisers
—section 50	Resolution of disputes
—section 56	Minimum funding requirement
—section 68	Power of trustees to modify schemes by resolution
—section 69	Grounds for applying for modifications
—section 75	Deficiencies in assets
—section 76	Excess assets on winding-up
—section 81	Cases where compensation provisions apply
—section 87	Schedules of payments to money purchase schemes

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of certain occupational pension schemes which are established in the Republic of Ireland but which have, or have had, at least one member in pensionable service in Great Britain. In particular, they exempt such schemes from certain requirements imposed by the Pensions Act 1995 and by certain regulations made under the Pension Schemes Act 1993 and the Pensions Act 1995 in relation to occupational pension schemes.

Regulation 1 provides for citation, commencement and interpretation and includes a definition of “Republic of Ireland scheme”.

Regulation 2 provides for the exemption of Republic of Ireland schemes from the requirements imposed by the legislative provisions listed in the Schedule.

Regulation 3 exempts trustees of any scheme which is a Republic of Ireland scheme from the provisions of section 27 of the Pensions Act 1995.

Regulation 4 requires certain information to be given by the trustees or managers of Republic of Ireland schemes to scheme members.

Regulation 5 prescribes penalties in respect of a failure, without reasonable cause, to comply with the requirements imposed by regulation 4 of the Regulations.

Regulations 6 to 12 amend, respectively, the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996, the Occupational Pension Schemes (Scheme Administration) Regulations 1996, the Occupational Pension Schemes (Requirement to obtain Audited Accounts and Statement from the Auditor) Regulations 1996, the Occupational Pension Schemes (Investment) Regulations 1996, the Register of Occupational and Personal Pension Schemes Regulations 1997 and the Occupational and Personal Pension Schemes (Levy) Regulations 1997 so as to exempt Republic of Ireland schemes from the application of some or all of the provisions of those Regulations.

These Regulations do not impose any costs on business.

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Schemes Exemption) Regulations 2000**

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