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STATUTORY INSTRUMENTS

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**2010 No. 2659**

**The Occupational, Personal and Stakeholder Pension Schemes  
(Disclosure of Information) (Amendment) Regulations 2010**

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

**3.—(1)** The Occupational Pension Schemes (Disclosure of Information) Regulations 1996<sup>(1)</sup> are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the actuary”, insert—

““address” means postal address (except in the phrases “postal address”, “electronic address” and “website address”),”

(b) after the definition of “deferred member”, insert—

““electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000;”, and

(c) for the definition of “excluded person”<sup>(2)</sup>, substitute—

““excluded person” means a member or beneficiary—

(a) whose present postal address and electronic address is not known to the trustees of the scheme; and

(b) in respect of whom the trustees of the scheme have sent correspondence to their last known—

(i) postal address and that correspondence has been returned, or

(ii) electronic address and the trustees of the scheme are satisfied that that correspondence has not been delivered;”.

(3) For sub-paragraph (a) of regulations 3(2) (constitution of scheme), 6(4) (availability and content of annual report) and 7(3) (availability of other documents)<sup>(3)</sup>, substitute—

“(a) be made available free of charge—

(i) for inspection at a place which is reasonable having regard to the circumstances of the request and of the person who or trade union which made it; or

(ii) on a website (see regulation 10B); or, at their option;”.

(4) In regulation 4 (basic information about the scheme)—

(a) in paragraph (2)<sup>(4)</sup>—

(i) in sub-paragraph (a), omit “or by 5th April 1998, whichever is later”, and

(ii) omit sub-paragraph (b),

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(1) [S.I. 1996/1655](#).

(2) The definition of “excluded person” was amended by [S.I. 2000/2691](#).

(3) The title for regulation 7 was substituted by [S.I. 2005/3377](#).

(4) Regulation 4(2) was amended by [S.I. 1997/3038](#) (which included the insertion of sub-paragraphs (a) and (b)).

- (b) at the beginning of paragraph (5), insert “Subject to paragraph (5A),”, and
- (c) after paragraph (5), insert—
  - “(5A) Paragraph (5) does not apply where the change in relation to the scheme results in a material alteration in information which the trustees of the scheme are not required to give or disclose by virtue of paragraph (4).”.
- (5) In regulation 5 (information to be made available to individuals)—
  - (a) for paragraph (5)(5), substitute—
    - “(5) Subject to regulation 2(3A), each member of a scheme who is eligible for money purchase benefits except an excluded person must be furnished, as of course, within 12 months of the end of each scheme year, with—
      - (a) the information mentioned in paragraphs 5, 6 and 6AA of Schedule 2; and
      - (b) subject to paragraph (5ZA) of this regulation, the information mentioned in paragraph 6ZA(1) of Schedule 2,
 and the information provided in accordance with this paragraph must relate to the member’s money purchase benefits.
    - (5ZZA) Where information is furnished in accordance with paragraph (5)(b)—
      - (a) that information must be accompanied by the additional information specified in paragraph 6ZA(6) of Schedule 2; and
      - (b) the further information specified in paragraph 6ZA(7) of Schedule 2 must be provided by one of the methods in paragraph (5ZD) of this regulation,
 and the information provided in accordance with this paragraph must relate to the member’s money purchase benefits.”,
  - (b) in paragraph (5ZA)(6), for “paragraph 6ZA” the first time it appears substitute “paragraph 6ZA(1)”,
  - (c) in paragraph (5ZC)(7), for the words from “then that information” to the end substitute—
    - “then—
      - (a) that information must be accompanied by the additional information specified in paragraph 6ZA(6) of Schedule 2; and
      - (b) the further information specified in paragraph 6ZA(7) of Schedule 2 must be provided by one of the methods in paragraph (5ZD) of this regulation,
 as if that additional and further information had been provided under paragraph 6ZA(1) of Schedule 2.”, and
  - (d) after paragraph (5ZC), insert—
    - “(5ZD) The methods referred to in paragraphs (5ZZA)(b) and (5ZC)(b) are for the further information to—
      - (a) accompany the information described in paragraph 6ZA(1) of Schedule 2; or
      - (b) be otherwise furnished by the trustees of the scheme.”.
- (6) In regulation 8 (limited disclosure requirements for certain schemes), omit paragraph (2)(b) and the word “and” immediately preceding it.
- (7) For regulation 10 (service of documents by post), substitute—

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(5) Paragraph (5) was amended by [S.I.s 1999/3198](#), [2000/1403](#) and [2002/1383](#).

(6) Paragraph (5ZA) was inserted by [S.I. 2002/1383](#).

(7) Paragraph (5ZC) was inserted by [S.I. 2002/1383](#).

#### **“Service of information and documents by a scheme**

**10.**—(1) Except where these Regulations otherwise provide, the trustees of the scheme may furnish or give any relevant information by—

- (a) sending it to a member or beneficiary’s last known postal address; or
- (b) subject to paragraphs (2) to (4), using either or both of the following methods—
  - (i) sending it to a member or beneficiary’s last known electronic address,
  - (ii) making it available on a website (see regulation 10B).

(2) Where the member or beneficiary has requested in writing that—

- (a) any relevant information; or
- (b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that relevant information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1) (b) where the trustees of the scheme are satisfied that the electronic communications have been designed—

- (a) so that members or beneficiaries will be able to—
  - (i) get access to, and
  - (ii) store or print,the relevant information; and
- (b) taking into account the requirements of disabled persons.

(4) Where—

- (a) a member or beneficiary was a member or beneficiary of the scheme on 1st December 2010; and
- (b) that member or beneficiary has not received relevant information by means of an electronic communication before 1st December 2010,

relevant information may not be furnished or given to that member or beneficiary in accordance with paragraph (1)(b) unless the trustees of the scheme have given them by post the written notice referred to in paragraph (5).

(5) The written notice mentioned in paragraph (4) must state that—

- (a) the trustees of the scheme propose to furnish or give relevant information to the member or beneficiary by means of an electronic communication; and
- (b) the member or beneficiary may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, “relevant information” means any information or document which these Regulations require the trustees of a scheme to give or furnish to a member or beneficiary of the scheme.

#### **Service of information and documents to a scheme**

**10A.** Any—

- (a) request for information or for a document to be given or furnished in pursuance of these Regulations; or
- (b) information to be given to the trustees of a scheme in relation to requirements imposed by these Regulations,

may be furnished, made or given by sending it to the trustees of the scheme by post.

### **Provision of information on a website**

**10B.**—(1) This regulation sets out the conditions which must be met when making information or documents available on a website under—

- (a) regulation 3(2)(a)(ii);
- (b) regulation 6(4)(a)(ii);
- (c) regulation 7(3)(a)(ii); and
- (d) regulation 10(1)(b)(ii).

(2) When the trustees of the scheme make the first information or document available on a website, they must send a notification to the recipient's last known—

- (a) postal address; or
- (b) electronic address.

(3) The notification referred to in paragraph (2) must include—

- (a) a statement that the information or document is available on the website;
- (b) the website address;
- (c) details of the place on the website where the information or document may be read; and
- (d) an explanation of how the recipient may read the information or document on the website.

(4) Except where paragraph (6) applies, when the trustees of the scheme make any subsequent information or document available on a website, they must send a notification to the recipient's last known—

- (a) postal address; or
- (b) electronic address.

(5) The notification referred to in paragraph (4) must include a statement that the information or document is available on the website.

(6) This paragraph applies where—

- (a) at least 3 letters have been—
  - (i) given to the recipient by hand, or
  - (ii) sent to the recipient's last known postal address;
- (b) each of those letters—
  - (i) asks the recipient to send their electronic address to the trustees of the scheme, and
  - (ii) states that the recipient may request in writing that information or documents are not furnished or given by means of an electronic communication; and
- (c) the trustees of the scheme—
  - (i) do not know the recipient's electronic address, or
  - (ii) have not received a written request that information or documents are not furnished or given to the recipient by means of an electronic communication.

(7) In this regulation, "recipient" means the person, organisation or body to whom these Regulations require information or documents to be made available."

(8) In Schedule 2 (information to be made available to individuals)—

- (a) omit paragraph 5(b),
- (b) in paragraph 6ZA(6)(8)—
  - (i) in paragraph (a)—
    - (aa) for the first comma, substitute “and”, and
    - (bb) omit the words from “, and that it should not” to the end,
  - (ii) omit paragraphs (b), (d), (g), (h) and (i), and
  - (iii) in paragraph (e), omit the words from “about the nature” to the end, and
- (c) after paragraph 6ZA(6), insert—
  - “(7) The further information which is to be provided, as mentioned in regulation 5(5ZZA)(b) and (5ZC)(b), is—
    - (a) a statement to the effect that assumptions have been made about the nature of the investments made for the purposes of the member’s money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;
    - (b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under sub-paragraph (1);
    - (c) a statement specifying any assumptions made in relation to future contributions to the scheme; and
    - (d) a statement of the assumptions made in accordance with sub-paragraphs (3)(b)(iii) and (4) or as mentioned in sub-paragraph (5).”.