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Statutory Document No. 590/04

RETIREMENT BENEFITS SCHEMES ACT 2000

THE RETIREMENT BENEFITS SCHEMES (RECOGNISED SCHEMES) REGULATIONS 2004

Approved by Tynwald *21st October 2004*

Coming into operation *1st November 2004*

In exercise of the powers conferred on the Treasury by sections 1(6), 21, 45 and 51 of the Retirement Benefits Schemes Act 2000¹, and of all other enabling powers, and after consulting the Insurance and Pensions Authority and such other organisations and persons as appear to it to be likely to be affected, the following Regulations are hereby made:—

Citation and commencement

1. These Regulations may be cited as the Retirement Benefits Schemes (Recognised Schemes) Regulations 2004 and, subject to section 51(5) of the Act, shall come into operation on the 1st November 2004.

Definitions

2. In these Regulations –

¹ 2000 c.14

“**the Act**” means the Retirement Benefits Schemes Act 2000;

“**Authority**”, “**member**”, “**retirement benefits scheme**” and “**trustee**” have the same meanings as given to them by section 54 of the Act;

“**recognised scheme**” means a retirement benefits scheme which has been registered as a recognised scheme under the provisions of these regulations and Part 3 of the Act;

“**recognised scheme certificate**” means a certificate issued by the Authority in accordance with regulation 4;

“**resident member**” has the meaning assigned to it by regulation 6.

Register of recognised schemes

3. (1) For the purpose of section 45 of the Act (Authority shall keep public registers) the prescribed particulars and information to be contained in the public register of recognised retirement benefits schemes is set out as follows –

- (a) name of the scheme;
- (b) date of being registered as a recognised scheme;
- (c) conditions (if any) attaching to recognition.

Registration as a recognised scheme

4. Upon registering a retirement benefits scheme as a recognised scheme in the register maintained under section 45 of the Act, the Authority may issue to the trustee of the scheme a recognised scheme certificate.

Information to be provided to the Authority

5. (1) For the purpose of section 21(5)(b) (information and documents to accompany notice of registration as a recognised scheme), the prescribed information and documents shall include –

- (a) written confirmation (being a letter or certificate issued by the relevant tax or supervisory authority in the designated country or territory) that the scheme is authorised under the law of a country or territory designed by an Order made under section 21(2) of the Act; and
- (b) written confirmation (being a letter or certificate issued by the relevant tax or supervisory authority in the designated country or territory) that the scheme falls within a class specified by the same Order and made under section 21(1)(a) of the Act.

(2) In the event of a scheme which has been registered as a recognised scheme –

- (a) ceasing to be authorised in accordance with the requirements of paragraph (1)(a),
- (b) ceasing to fall within the class specified in paragraph (1)(b), or
- (c) ceasing to be managed in the designated country for which confirmation has been provided under paragraph (1)(a) of the scheme being authorised,

the trustee of the scheme shall thereupon notify the Authority of the scheme’s change in circumstances.

Provision of information to certain scheme members

6. (1) The trustee of a recognised scheme shall issue –

(a) on receipt of a recognised scheme certificate, to all members who are resident for the purpose of the Income Tax Act 1970² in the Isle of Man (referred to in these Regulations as the ‘resident members’); and

(b) subsequently, to each person on their becoming a resident member,
a written notice, in compliance with the provisions of paragraph (2).

(2) The notice issued under paragraph (1) shall include a statement containing the following information –

(a) that the scheme has been registered with the Isle of Man Financial Services Authority as a recognised scheme;

(b) that the scheme is regulated by a regulatory body in the country or territory of its establishment giving the name and address of that regulatory body; together with a statement outlining the ability of that regulatory body to intervene in the running of the scheme where the trustee, employer or the scheme’s professional advisers have failed in their duties;

(c) that the scheme is not regulated as an authorised scheme under Part 2 of the Retirement Benefits Schemes Act 2000 and is exempt from the authorisation requirements of that Act being a scheme regulated by an external regulatory body;

(d) the address of the Isle of Man Financial Services Authority;

(e) the name and address of the scheme trustee from whom further information can be obtained; and

(f) advice, as appropriate, that although the scheme is not registered as an authorised scheme by the Isle of Man Financial Services Authority it remains subject to the statutory preservation, revaluation, transfer and disclosure provisions operating in the Isle of Man in respect of members in employment in the Island.

Trustee exemptions

7. (1) Where a person in the Island acts as a trustee of a retirement benefits scheme which –

(a) has no resident members, or employer in the Island of any member; and

(b) is managed in and authorised under the law of a country or territory that has been designated by an Order made by the Treasury for the purposes of section 21 of the Act;
and

(c) is of a class specified by an Order made by the Treasury under section 21 of the Act,

that person shall, subject to paragraph (2), be exempt from the provisions of section 1(3) of the Act.

(2) Where a person is exempted from section 1(3) of the Act by virtue of paragraph (1), the exemption shall only apply to the extent that that person acts only in the capacity of trustee of retirement benefits schemes specified in that paragraphs.

² XXI p.260

(3) Where a person in the Island acts as a trustee of a scheme which has been registered as a recognised scheme, that person shall be exempt from the provisions of section 1(3) of the Act during the continuance of any period specified by the Authority under section 31(4) of the Act (scheme not a recognised scheme for a specified period).

Made 15th September 2004

Hon A J Earnshaw MHK

Signed by authority of the Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations are made under sections 1, 21, 45 and 51 of the Retirement Benefits Schemes Act 2000 and make provision for exempting from the requirement for authorisation under that Act where a retirement benefits scheme is regulated in a jurisdiction outside of the Isle of Man, where that jurisdiction provides adequate regulation. The jurisdictions and qualifying classes of scheme are outlined in separate Orders made under section 21 of the Act.

Regulations 1 and 2 provide the citation, commencement and definitions.

Regulation 3 sets out the information to be held on the public register of recognised schemes.

Regulation 4 provides that the Authority may, on registering a scheme as a recognised scheme, issue a recognised scheme certificate.

Regulation 5 outlines written information that must be provided to accompany the notice of application for a scheme to be registered as a recognised scheme required by section 21 of the Act. This introduces the requirement for trustees, when making such an application, to submit a letter or certificate from the relevant tax or supervisory authority in the designated country in which the scheme is being managed which confirms that the scheme has been authorised (approved) in that country and is within the class specified in the associated country Order. It also imposed the requirement for the trustee of a recognised scheme to notify the Authority immediately should there be any change in the status of the scheme, including its ceasing to be managed in the designated country, which could lead to its removal from the register of recognised schemes.

Regulation 6 set out information that must be provided to Isle of Man members of the recognised scheme.

Regulation 7 exempts local trustees from the requirement to register a scheme qualified for registration as a recognised scheme, provided that the scheme has no local members or employers of members.