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## Statutory Document No. 595/04

### RETIREMENT BENEFITS SCHEMES ACT 2000

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#### **THE RETIREMENT BENEFITS SCHEMES (GENERAL REGISTER) REGULATIONS 2004**

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*Approved by Tynwald*

*21st October 2004*

*Coming into operation*

*1st November 2004*

In exercise of the powers conferred on the Treasury by sections 24 and 51 of the Retirement Benefits Schemes Act 2000<sup>1</sup>, and of all other enabling powers, and having consulted 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:—

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<sup>1</sup> 2000 c.14

## Citation and commencement

1. These Regulations may be cited as the Retirement Benefits Schemes (General Register) Regulations 2003 and, subject to section 51(5) of the Act, shall come into operation on the 1st November 2004.

## Definitions

2. In these Regulations –

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

“**the 1990 Regulations**” means the Register of Occupational and Personal Pension Schemes Regulations 1990<sup>2</sup>, as these have effect in the Island;

“**the Authority**” [*Revoked*]

“**administrator**” means the person in the Island who –

- (a) is responsible for the management of the scheme, and
- (b) in respect of an authorised scheme, is a registered schemes administrator within the meaning given by section 36(1)(a) of the Act or a person exempted under section 36(1)(b) of that Act;

“**authorised scheme**” means a scheme which has been registered in accordance with section 3 of the Act;

“**Authority**” means the Isle of Man Financial Services Authority;

“**closed scheme**” means a scheme to which no new members may be admitted, but to which contributions are or may be payable by or in respect of, and under which benefits accrue to, existing members;

“**domestic authorised scheme**” means an authorised scheme that is registered on the public register of authorised domestic retirement benefits schemes in accordance with regulation 6 of the Retirement Benefits Schemes (Domestic Schemes) (General Administration) Regulations 2004<sup>3</sup>;

“**frozen scheme**” means a scheme under which benefits continue to be payable to existing members and to which –

- (a) no new members may be admitted,
- (b) no further contributions are payable by or in respect of existing members, and
- (c) no further benefits accrue to existing members although benefits which have already accrued to them may be increased;

“**international authorised scheme**” means an authorised scheme that is registered on the public register of international authorised retirement benefits schemes in accordance with regulation 6 of the Retirement Benefits Schemes (International Schemes) Regulations 2001<sup>4</sup>;

“**money purchase benefits**” means benefits the rate or amount of which are calculated by reference to a payment or payments made by a member or by any other person in respect of that member;

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<sup>2</sup> GC 492/92 (as amended by GC 494/92 and SD 590/95)

<sup>3</sup> SD 589/04

<sup>4</sup> SD 645/01

- “occupational scheme”** has the same meaning as in section 53 of the Act;
- “open scheme”** means a scheme that is not a closed scheme, a frozen scheme or a scheme that has been wound-up;
- “pensionable service”** in relation to a member of an occupational scheme, means service in any description or category of employment to which the scheme relates which qualifies the member (on the assumption that it continues for the appropriate period) for pension or other benefits under the scheme;
- “permitted scheme”** means a scheme which has been registered in accordance with regulation 4 of the Retirement Benefits Schemes (Permitted Schemes) Regulations 2004<sup>5</sup>;
- “professional advisers”** has the same meaning as in section 6(2)(d) of the Act;
- “recognised scheme”** means a scheme which has been registered in accordance with section 21 of the Act;
- “registrable scheme”** means an authorised scheme, permitted scheme, recognised scheme or statutory scheme;
- “register”** means the general register of registrable schemes compiled and maintained in accordance with the provisions of section 24 of the Act and these regulations;
- “scheme”** has the same meaning as in section 54 of the Act;
- “statutory scheme”** has the same meaning as in section 14 of the Income Tax (Retirement Benefit Schemes) Act 1978<sup>6</sup>;
- “statutory manager”** has the same meaning as in regulation 2 of the Occupational Pension Schemes (Managers) Regulations 1988<sup>7</sup>;
- “Supervisor”** [*Revoked*]
- “transfer credits”** means rights allowed to a member under the rules of an occupational scheme by reference to a transfer to that scheme of rights which accrued to or in respect of him to future benefits from another scheme;
- “trustee”** means –
- (a) in relation to a scheme established under a trust, the trustee or trustees of the scheme, and
  - (b) in any other case, the person responsible for the management of the scheme.

### **Compilation and maintenance of the general register**

**3.** (1) For the purpose of section 24(1) of the Act (Registration of retirement benefits schemes) the Authority shall compile and maintain the register of schemes.

(2) The register shall be compiled from information received by the Authority in the execution of its functions under the Act or any public document made under the Act and from such other information as the Authority may reasonably request in accordance with paragraph (3).

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<sup>5</sup> SD 593/04

<sup>6</sup> 1978 c.9

<sup>7</sup> GC201/88

(3) The trustee or administrator of, or in respect of an occupational scheme any currently or formerly participating employer in, a registrable scheme shall provide any information for the purpose of the register as may be reasonably requested by the Authority under written notice, within 3 months of receipt of that notice.

#### **Information to be recorded in the general register**

**4.** (1) For the purpose of section 24(2) of the Act (form and information relating to the general register of schemes) the register shall consist of two parts which shall contain the following information –

- (a) in respect of Part I, the information held prior to the 1st November 2004 on the former register; and
- (b) in respect of Part II, for each scheme which, on or after the 1st November 2004, is a registrable scheme, the following information –
  - (i) the name of the scheme;
  - (ii) the names and addresses of each trustee of the scheme, identifying in respect of an authorised scheme the trustee or any of the trustees that are for the purposes of section 3(7)(e) of the Act independent of the employer;
  - (iii) whether the scheme is, or was formerly, –
    - (a) a domestic authorised scheme,
    - (b) an international authorised scheme,
    - (c) a recognised scheme,
    - (d) a permitted scheme, or
    - (e) a statutory scheme;
  - (iv) whether the scheme is –
    - (a) a personal scheme, or
    - (b) an occupational scheme;
  - (v) in respect of an authorised scheme –
    - (a) the name and address of the administrator and, where the administrator is not an individual, the name and address of the person in the Isle of Man responsible for the management of the administrator's business; and
    - (b) the name and address of the professional advisers;
  - (vi) in respect of a recognised scheme, the name of any person authorised in accordance with the provisions of section 21(5)(a) of the Act;
  - (vii) in respect of a permitted scheme, the name of any authorised person appointed in accordance with regulation 8 of the Retirement Benefits Schemes (Permitted Schemes) Regulations 2004<sup>8</sup>;
  - (viii) in respect of a statutory scheme, the name of the statutory manager of the scheme;

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<sup>8</sup> SD 593/04

- (ix) whether the scheme is open, closed, frozen or wound-up;
- (x) the number of registrable members;
- (xi) in respect of an occupational scheme, the name (and, where subsequent to the 1st November 2004 there is a change of name, the previous name) and address of every employer who is currently or was formerly participating in the scheme;
- (xii) in respect of an occupational scheme, whether the scheme provides –
  - (a) money purchase benefits,
  - (b) benefits other than money purchase benefits, or
  - (c) a combination of money purchase benefits and non-money purchase benefits,
 but, for the purposes of this sub-paragraph, benefits derived from transfer credits, or from contributions payable under a voluntary contributions requirement, within the meaning given by section 111 of the Pension Schemes Act 1993<sup>9</sup>, as it has effect in the Island, may be disregarded;
- (xiii) the commencement date of the scheme;
- (xiv) the scheme year end or annual accounting date.

(2) The register may also contain such other information as the Authority considers appropriate for the purpose of the register.

(3) In this regulation –

**“former register”** means the Register of Occupational and Personal Pension Schemes compiled and maintained by the Department of Health and Social Security in accordance with the provisions of the 1990 Regulations;

**“registrable member”** means –

- (a) in respect of an authorised scheme or a statutory scheme, any person who is a member, however described, of that scheme,
- (b) in respect of a recognised scheme, any member of that scheme who is classified as a resident member by virtue of regulation 6 of the Retirement Benefits Schemes (Recognised Schemes) Regulations 2004<sup>10</sup>,
- (c) in respect of a permitted scheme, any member of that scheme who is classified as a resident member by virtue of regulation 6 of the Retirement Benefits Schemes (Permitted Schemes) Regulations 2004<sup>11</sup>.

#### **Availability of information recorded in the general register**

5. (1) The Authority shall, on receipt of a written request containing sufficient information to enable the Authority to identify the registrable scheme in question, supply a copy of an extract from the register relating to that scheme to –

- (a) any person who is, or may become, entitled to benefit under the scheme or any person acting on behalf of such a person;

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<sup>9</sup> SD 531/95

<sup>10</sup> SD 590/04

<sup>11</sup> SD 593/04

- (b) any person who is the trustee, administrator or statutory manager of the scheme;
  - (c) the Pensions Ombudsman appointed under section 145 of the Pension Schemes Act 1993<sup>12</sup>, as it has effect in the Island;
  - (d) the Retirement Benefits Schemes Ombudsman appointed under section 39(1) of the Act;
  - (e) an adjudicator appointed under section 24 of the Financial Services Act 2008; and
  - (f) where section 119 of the Pension Schemes Act 1993<sup>13</sup>, as it has effect in the Island, applies to that scheme, the practitioner or liquidator or provisional liquidator, within the meaning of that section.
- (2) The Authority may make available any information held on the register to –
- (a) the manager of any compensation scheme established under section 25 of the Financial Services Act 2008, in relation to his functions under that section;
  - (b) the Treasury or the Assessor of Income Tax, in relation to the discharge of their functions in relation to income tax; or
  - (c) the Department of Health and Social Security, in relation to the discharge of its functions in relation to occupational and personal pension schemes.
- (3) Information supplied under this regulation shall be made available in such form as the Authority may determine.

### **Offences**

**6.** (1) Any person who, without reasonable cause, fails to comply with the requirements of regulation 3(3) shall be guilty of an offence.

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Made 15th September 2004

*Hon A J Earnshaw MHK*

Signed by authority of the Minister for the Treasury

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<sup>12</sup> SD 531/95 (as amended by SD 501/97)

<sup>13</sup> SD 531/95

## **EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations are made under sections 24 and 51 of the Retirement Benefits Schemes Act 2000 and come into operation on the 1st November 2004.

They provide for the creation of a general register of retirement benefits schemes, catered for by section 24 of the Retirement Benefits Schemes Act 2000, and establish what information, and in respect of which classes of schemes, will be held on the register.

Regulation 3 provides that the primary source of the information to be registered shall be taken from the information received by the Authority in the discharge of its functions under the Act. The classes of scheme to which this information relates are schemes registered with the Authority as authorised, recognised or permitted schemes and to public service pension schemes. This regulation also provides that the Authority may directly request such additional information as may be required for the purpose of the register.

Regulation 4 specifies what information shall be maintained on the register. It separates the register into two parts in consideration of the register replacing and incorporating the information held on the existing pension register compiled and maintained by the Department of Health and Social Security.

Regulation 5 establishes, in respect of specific schemes, who may obtain access to information held on the register. Unlike the public registers established under section 45 of the Act, the general register established by these regulations is not open to public inspection. The register may however be used for tracing purposes equivalent to those currently offered by the Department of Health and Social Security.

Regulation 6 provides that any person who does not provide information requested for the purpose of the register, shall be guilty of an offence.