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Statutory Document No. 647/01

RETIREMENT BENEFITS SCHEMES ACT 2000

THE RETIREMENT BENEFITS SCHEMES (MANAGEMENT AND MISCELLANEOUS PROVISIONS) REGULATIONS 2001

Approved by Tynwald

11th December 2001

Coming into operation

1st January 2002

In exercise of the powers conferred on the Treasury by sections 3, 6, 45 and 51 of the Retirement Benefits Schemes Act 2000¹, 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:—

¹ 2000 c.14

Citation and commencement

1. These Regulations may be cited as the Retirement Benefits Schemes (Management and Miscellaneous Provisions) Regulations 2001 and, subject to section 51(5) of the Act, shall come into operation on the 1st January 2002.

Definitions

2. In these Regulations –

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

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

“**in-house scheme administrator**” means a scheme administrator who is not a professional scheme administrator;

“**insurer**” has the same meaning as in section 54 of the Insurance Act 2008;

“**occupational scheme**” has the same meaning as in section 53 of the Act;

“**professional scheme administrator**” means a person who in the course of his business acts as a scheme administrator of an occupational scheme;

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

- (a) responsible for the management of a retirement benefits scheme; and
- (b) a registered schemes administrator under section 36(1)(a) of the Act;

“**self-administered scheme**” means a retirement benefits scheme where some or all of the income and other assets are invested otherwise than in policies of insurance or annuity contracts.

Public register of scheme administrators

3. For the purpose of section 45 of the Act (the Authority shall keep public registers), the prescribed particulars and information to be contained in the register of scheme administrators is set out as follows –

- (a) name and business address of the scheme administrator;
- (b) name and contact details of the person responsible for the management of the business in the Island;
- (c) whether the scheme administrator is an in-house scheme administrator or a professional scheme administrator; and
- (d) date of registration.

Authorisation

4. For the purpose of Section 3(7)(g) of the Act (qualifications for registration as an authorised scheme) the prescribed requirements are that the scheme administrator shall have adequate knowledge and experience fitted for the management of the retirement benefits scheme for which an application for registration as an authorised scheme is being made.

Schemes administrators

5. (1) The appointment of a scheme administrator to an authorised scheme shall be made in writing and shall –

- (a) specify the date the appointment is due to take effect;
- (b) outline the requirements of paragraph (2).

(2) Upon appointment as scheme administrator of an authorised scheme, the scheme administrator shall –

- (a) acknowledge in writing receipt of the notice of appointment within 1 month of its receipt;
- (b) confirm in writing that he will notify the scheme trustee of any conflict of interest to which he is subject, in relation to the scheme, immediately he becomes aware of its existence;
- (c) confirm in writing that he will notify the scheme trustee and the Authority of any change in the administrator's business address or in the contact details of the person responsible for the management of the business in the Isle of Man, immediately he becomes aware of the change.

(3) A scheme administrator of an authorised scheme shall within 2 weeks of ceasing to carry on business in or from within the Island notify both the Authority and the scheme trustee of his change in circumstances and of his new correspondence address.

(4) Any person who fails to comply with this regulation shall be guilty of an offence.

Scheme trustees

6. (1) At least one of the trustees of a scheme who, for the purpose of section 3(7)(e) of the Act is, or is treated as, independent of the employer of the member shall –

- (a) be identified as a trustee of the scheme on all documentation evidencing the ownership of the assets of the scheme, except in cases where this is not permitted by any law governing such documentation, and
- (b) be a co-signatory on all bank accounts held by the scheme.

(2) The administrator of an authorised scheme shall, as soon as practicable, give notice to the Authority of any proposal for the appointment of an additional trustee to that scheme and the notice shall be accompanied by a statement of the reasons for the proposal.

(3) Effect shall not be given to any proposal under paragraph (2) unless –

- (a) the Authority has given its approval to the proposal; or
- (b) one month has elapsed since the date on which the notice was given under paragraph (2) without the Authority having given notice to the administrator that the proposal is not approved together with a statement of reasons for the decision.

(4) An administrator who fails to comply with paragraph (2) shall be guilty of an offence.

(5) Any person who is aggrieved by a decision of the Authority to refuse to give approval under paragraph (3) may apply for a review of the decision in the same

manner as a review under section 38 of the Act and that section and rules under it shall accordingly apply in respect of the review.

(6) For the purpose of section 3(7)(c) of the Act (number of individual trustees of an authorised scheme) the requirement for the appointment of a second individual trustee shall not apply where –

- (a) the scheme has less than two members;
- (b) the member of the scheme is the trustee of the scheme; and
- (c) the scheme is not a self-administered scheme.

Exemptions

7. (1) Where a person acts as an administrator of a retirement benefits scheme which –

- (a) has no members who are resident for the purpose of the Income Tax Act 1970² in the Isle of Man, or employer in the Isle of Man of any member; and
- (b) is 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 (3), be exempt from registration under section 36 of the Act.

(2) For the purpose of section 36(1)(b) of the Act (exemption from the requirement to register as a scheme administrator), the following persons shall, subject to paragraph (3), be exempted from registration –

- (a) any person or body who is treated as a manager of a public service pension scheme in accordance with regulation 2 of the Occupational Pension Schemes (Managers) Regulations 1988³;
- (b) any person who is responsible for the management of the Isle of Man War Pensions Committee Regulations 2002⁴.
- (c) The administrator of any arrangement specified in regulation 3(3) of the Retirement Benefits Schemes (Excepted Schemes) Regulations 2001⁵.

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

Schemes written under Deed Poll

8. For the purpose of section 3(7)(a) of the Act (property of a scheme to be held under

² XXI p.260

³ GC 201/88 (amended by SD 590/95)

⁴ SD 378/02 (as amended by SD 885/04, SD 728/06 and SD 137/07)

⁵ SD 646/01 (as amended by SD 597/04)

trust) the requirement for the constitutional documents of a scheme to irrevocably provide for the trustee to hold all the property of the scheme in trust for the beneficiaries of the scheme shall not apply to any personal scheme which –

- (a) is approved under section 2 of the Income Tax Act 1989; and
- (b) is written under Deed Poll established by an insurer.”.

9 Changes of trustee or administrator

For the purpose of section 18(A1) of the Act (requirement for the submission of prescribed particulars on the appointment of a director, chief executive, manager or controller of a trustee or administrator) the prescribed particulars are —

- (a) the full name of the person to be appointed;
- (b) the full postal address of the person to be appointed; and
- (c) the position to be occupied by the person to be appointed (director, chief executive, manager or controller).

Made 7th November 2001

Hon R K Corkill MHK
Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations are made under sections 3, 6, 45 and 51 of the Retirement Benefits Schemes Act 2000.

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

Regulation 3 sets out the information to be held in the Public Register of Schemes Administrators.

Regulation 4 provides that a retirement benefits scheme cannot be authorised unless the scheme administrator has suitable knowledge and experience fitted to the management of the scheme.

Regulation 5 sets out conditions that must be satisfied on the appointment of a person as a scheme administrator to an authorised scheme.

Regulation 6 establishes the requirement for an independent trustee of an occupational scheme to be identified as a trustee of the scheme on all documentation relating to the trust property and to be a signatory on all scheme bank accounts. It also provides that it is the duty of the scheme administrator to notify the Authority of any proposal to appoint an additional trustee to the scheme. It also provides for certain insured single member retirement benefits schemes a relaxation from the requirement for additional trustees to be appointed.

Regulation 7 provides limited exemptions from the requirement to register as a scheme administrator and clarifies that the person responsible for the management of a retirement benefits scheme which is not an authorised scheme but which meets the conditions therein set out need not be a registered schemes administrator.

Regulation 8 provides, in respect of wholly insured tax approved personal pension schemes written under Deed Poll, an exemption from the primary requirement that the property of the scheme must be held in trust.

Regulation 9 sets out the prescribed particulars that must be served on the Authority where it is proposed that a new director, chief executive, manager or controller of a scheme trustee or administrator be appointed