



STATUTORY INSTRUMENTS.

**S.I. No. 637 of 2021**

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OCCUPATIONAL PENSION SCHEMES (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2021

OCCUPATIONAL PENSION SCHEMES (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2021

I, HEATHER HUMPHREYS, Minister for Social Protection, in exercise of the powers conferred on me by section 5 (as amended by section 44 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006)), section 54 (as amended by section 36 of the Social Welfare and Pensions Act 2011 (No. 9 of 2011)), section 55 (as amended by section 37 of the Social Welfare and Pensions Act 2007 (No. 8 of 2007)) and section 56 (as amended by section 37 of the Social Welfare and Pensions Act 2007 (No. 8 of 2007)) of the Pensions Act 1990 (No. 25 of 1990) (as adapted by the Employment Affairs and Social Protection (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 447 of 2020)) and for the purposes of giving further effect to Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016<sup>1</sup>, hereby make the following Regulations:

**Citation and Construction**

1. These Regulations may be cited as the Occupational Pension Schemes (Disclosure of Information) (Amendment) Regulations 2021.
2. These Regulations and the Occupational Pension Schemes (Disclosure of Information) Regulations 2006 to 2019 shall be construed together as one and may be cited as the Occupational Pension Schemes (Disclosure of Information) Regulations 2006 to 2021.

**Amendments**

3. The Occupational Pension Schemes (Disclosure of Information) Regulations 2006 (S.I. No. 301 of 2006) are amended –
  - (a) in Regulation 4 by -
    - (i) in the definition of “affiliated employer”, by the substitution of “sections 7 and 8 of the Companies Act 2014 (No. 38 of 2014) respectively” for “section 155 of the Companies Act, 1963, (No. 33 of 1963)”;
    - (ii) by the insertion of the following definition after the definition for “designated benefit”:“ “Directive of 2016” has the meaning assigned to it in section 2 of the Act;”;
    - (iii) by the deletion of the definition of “One Member Arrangement”;
    - (iv) by the insertion of the following definition after the definition for “preserved benefit”:

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<sup>1</sup> OJ No. L 354, 23.12.2016, p. 37

“ ‘Regulations of 2021’ means the European Union (Occupational Pension Schemes) Regulations 2021 (S.I. No. 128 of 2021);”, and

- (v) by the insertion of the following definition after the definition for “relevant person”:

“ ‘representative’ means a person authorised by a member or beneficiary of a scheme to which the Regulations of 2021 apply, to represent the member or beneficiary, as the case may be, in so far as the information to be provided to the member or beneficiary in accordance with these Regulations is relevant to the rights of such a member or beneficiary of the scheme;”;

- (b) in regulation 5 –

- (i) in sub-article (1), by the deletion of “(other than a One Member Arrangement)”;
- (ii) in sub-article (2), by the substitution of “Subject to sub-article (7)” for “Subject to article 8”;
- (iii) in sub-article (5)(a), by the substitution of “in the case of a sole trustee which is a body corporate, by two directors of that body corporate” for “if there is only one trustee, by that trustee”, and
- (iv) by the insertion of the following sub-article after sub-article (6):

“(7) In the case of a one-member arrangement established before the coming into operation of the Regulations of 2021, the requirements of this article shall apply in respect of the same year for which such an arrangement is required to prepare the first annual report in accordance with section 55(8)(c)(ii) of the Act.”;

- (c) in Regulation 6 –

- (i) by the substitution of the following sub-article for sub-article (1) –
  - “(1) In this article, ‘relevant scheme’ means a scheme to which section 56 of the Act applies other than a scheme to which sub-article (6) applies.”;
- (ii) in sub-article (6) -
  - (I) by the substitution of “Subject to sub-article 6A, the trustees” for “The trustees”;
  - (II) by the deletion of “a One Member Arrangement, or”, and
- (iii) by the insertion of the following sub-article after sub-article (6):

“(6A) In the case of a one-member arrangement established before the coming into operation of the Regulations of 2021, the requirements set out in sub-article (6) shall apply in respect of the same year for which such an arrangement is required to prepare the first annual report in accordance with section 55(8)(c)(ii).”;

(d) in Regulation 9 -

- (i) in sub-article (1)(a), by the insertion of “and shall be publicly disclosed” after “to the relevant persons”;
- (ii) in sub-article (2)(b), by the insertion of “or, in the case of a scheme to which the Regulations of 2021 apply, to a representative,” after “to any of the other relevant persons”, and
- (iii) in sub-article (4) -
  - (I) in paragraph (a), by the insertion of “or, in the case of a scheme to which the Regulations of 2021 apply, and except in the case of valuation reports, a representative,” after “any of the relevant persons”;
  - (II) in paragraph (b), by the insertion of “subject to paragraph (c),” before “furnished on request”, and
  - (III) by the insertion of the following paragraph after paragraph (b) -
 

“(c) in the case of a scheme to which the Regulations of 2021 apply, and except in the case of valuation reports, furnished on request free of charge to a member or beneficiary of the scheme, or a representative, not later than 4 weeks after the request is made.”;

(e) in Regulation 10 -

- (i) in sub-article (1), by the substitution of “specified in sub-articles (1B), (2), (3), (3A) and (3B)” for “specified in sub-articles (2) and (3)”;
- (ii) by the insertion of the following sub-articles after sub-article (1):
 

“(1A) In the case of a scheme to which the Regulations of 2021 apply, the trustees of the scheme shall notify members and beneficiaries, or a representative, of any relevant information in respect of changes to the scheme rules, not later than 4 weeks from the date of any such change, and shall, with that notification, provide -

  - (a) the contents of any document which amends or supplements or wholly or partly supersedes the documents referred to in sub-article (1)(a) to (c), and

- (b) the notification referred to in Article 11(4)(a), if applicable.
- (1B) In the case of a scheme to which the Regulations of 2021 apply, a copy of the documents specified in paragraphs (a) to (d) of sub-article (1) shall be furnished, free of charge, to every member or beneficiary, within 2 months, as the case may be, of the person becoming a member of the scheme or benefits becoming payable to the beneficiary under the scheme.”;
- (iii) in sub-article (3), by the substitution of “Subject to sub-article (3A), a copy” for “A copy”, and
  - (iv) by inserting the following sub-articles after sub-article (3) –
- “(3A) In the case of a scheme to which the Regulations of 2021 apply, a copy of the documents specified in sub-article (1) shall, on request by a member or beneficiary of the scheme, be furnished to such a member or beneficiary, free of charge, not later than 4 weeks after the request is made.
- (3B) In the case of a scheme to which the Regulations of 2021 apply, a copy of the documents specified in sub-article (1), and the information referred to in paragraph (e) of that sub-article, shall be furnished to any prospective members who are not automatically enrolled in the scheme, before they become a member of the scheme.”;
- (f) by the insertion of the following Regulation after Regulation 10:
- “Disclosure of Information in relation to schemes – General requirements**
- 10A.** (1) In the case of a scheme to which the Regulations of 2021 apply, where the trustees of such a scheme are required to provide information under these Regulations to members, beneficiaries, a representative, or prospective members, the trustees of the scheme shall ensure that the information is maintained, presented and provided in the manner set out in sub-article (2).
- (2) The information referred to in sub-article (1) shall be:
- (i) updated;
  - (ii) written in a clear manner, using clear, succinct and comprehensible language, avoiding the use of jargon and avoiding technical terms where everyday words can be used instead;
  - (iii) not misleading, and consistency shall be ensured in the vocabulary and content;
  - (iv) presented in a way that is easy to read;

- (v) available in the English language, and
  - (vi) made available to members, beneficiaries and prospective members free of charge through electronic means, including on a durable medium or by means of a website, or on paper.”;
- (g) in Regulation 11 –
- (i) by the substitution of the following sub-article for sub-article (1):
- “(1) Subject to sub-article (5), the trustees of a scheme shall furnish in writing the information specified in paragraphs 1 to 22 and, in the case of a scheme to which the Regulations of 2021 apply, the information specified in paragraphs 24 and 25, of Schedule C to the persons specified in sub-articles (2), (3) and (3A).”;
- (ii) by the substitution of the following sub-article for sub-article (2):
- “(2) Subject to sub-article (3A)(ii), the information specified in paragraphs 1 to 22 and, in the case of a scheme to which the Regulations of 2021 apply, the information specified in paragraph 25, of Schedule C shall be furnished to every person who becomes a member of a scheme within 2 months of becoming a member.”;
- (iii) by the substitution of the following sub-article for sub-article (3):
- “(3) The information specified in paragraphs 1 to 22 and, in the case of a scheme to which the Regulations of 2021 apply, the information specified in paragraph 24, if applicable, and 25, of Schedule C shall, not later than 4 weeks after the request is made, be furnished to the relevant persons.”;
- (iv) by the insertion of the following sub-article after sub-article (3):
- “(3A) In the case of a scheme to which the Regulations of 2021 apply, the information specified in paragraphs 1 to 24 of Schedule C, where applicable, and, in the case of the persons referred to in paragraph (ii), paragraph 25, shall be furnished to any prospective members -
- (a) who are not automatically enrolled in a scheme, before they become a member of the scheme,
  - (b) who are automatically enrolled in a scheme, promptly after becoming a member of the scheme.”;

- (v) by the substitution of the following sub-article for sub-article (4)(a):

“(4)(a) The trustees of a scheme shall notify the members of the scheme or, in the case of a scheme to which the Regulations of 2021 apply, the members and beneficiaries or representatives, of any material alteration in the information specified in paragraphs 1 to 23 and, in the case of a scheme to which the Regulations of 2021 apply, paragraph 25, of Schedule C within four weeks of the date of making any such alteration.”, and

- (vi) by the insertion of the following sub-article after sub-article (6):

“(7) In the case of a scheme to which the Regulations of 2021 apply, the trustees of the scheme shall make available to members and beneficiaries of the scheme, or representatives, an explanation of the impact on members and beneficiaries of significant changes to technical provisions, where applicable.”;

- (h) in Regulation 13 –

- (i) in paragraph (b) of sub-article (6), by the insertion of “or, free of charge, in the case of a scheme to which the Regulations of 2021 apply” after “(unless the trustees decide otherwise)”, and
- (ii) by the insertion of the following sub-articles after sub-article (8):

“(9) Other than in the case of sub-articles (3), (4) and (5), and subject to sub-article (10), this article shall only apply to a scheme to which the Regulations of 2021 do not apply.

(10) In the case of a scheme to which the Regulations of 2021 apply, sub-articles (1), (2), (6), (7) and (8) shall continue to apply until such date as the trustees of such a scheme make available, to the members of the scheme, the first Pension Benefit Statement in accordance with Chapter 1 of Part 6 of the Regulations of 2021.”;

- (i) in Regulation 14 –

- (i) in sub-article (5), by the substitution of “Subject to sub-article (6), the information specified” for “The information specified”, and
- (ii) the insertion of the following sub-article after sub-article (5):

“(6) In the case of a scheme to which the Regulations of 2021 apply, sub-article (5) shall no longer apply from the date on which the trustees of such a scheme make available, to the members of the scheme, the first Pension

Benefit Statement in accordance with Chapter 1 of Part 6 of the Regulations of 2021.”;

(j) in Regulation 15 -

- (i) in sub-article (1), by the insertion of “, except in the case of a member of a scheme referred to in sub-article (1A),” after “persons specified in sub-article (3)”, and
- (ii) by the insertion of the following sub-articles after sub-article (1):

“(1A) In the case of a member of a scheme to which the Regulations of 2021 apply, the trustees of the scheme shall furnish to such a member, in due time prior to benefits becoming payable to the member from the scheme, or on request by the member, information specified in paragraphs 1 to 5 of Schedule F, and where the scheme is a defined benefit scheme to which section 44 of the Act applies the information specified in paragraph 6 of Schedule F.

(1B) In the case of a scheme to which the Regulations of 2021 apply, the trustees of such a scheme shall -

(a) where a benefit under the scheme has become payable or is about to become payable, periodically provide information specified in paragraphs 1 to 5 of Schedule F to persons specified in sub-article (3), and

(b) when a significant level of investment risk is borne by persons specified in sub-article (3) in respect of whom a benefit under the scheme has become payable or is about to become payable, provide such persons with appropriate information regularly.”;

(k) in Regulation 18, by the insertion of “or beneficiary, as the case may be,” after “furnished on request to a member”;

(l) by the insertion of the following Regulation after Regulation 18:

**“Information to be made available – where members bear investment risk**

**18A.** (1) In the case of a scheme to which the Regulations of 2021 apply, and in the case of any such scheme in which members bear an investment risk and which provides for more than one option with different investment profiles, the trustees of the scheme shall furnish, in the manner specified in sub-articles (2), (3) and (4), the members of the scheme with information in relation to –

- (a) the conditions regarding the range of investment options available;

- (b) the default investment option, where applicable, and
  - (c) the rules of the scheme to allocate a particular member to an investment option.
- (2) The trustees of a scheme referred to in sub-article (1) shall furnish the information referred to in sub-article (1) to a member of the scheme within 2 months of becoming a member.
- (3) The trustees of a scheme referred to in sub-article (1) shall furnish the information referred to in sub-article (1), on request, to a member of the scheme not later than 4 weeks after the request is made.
- (4) The trustees of a scheme referred to in sub-article (1) shall notify the members of the scheme of any material alteration in the information specified in sub-article (1) within 4 weeks of the date of making of any such alteration.”;
- (m) in Regulation 19, by the insertion of “or by means of any electronic method” after “by ordinary post at the last address known to the trustees”;
  - (n) by the deletion of Regulation 22;
  - (o) in Schedule A, by the substitution of the following paragraph for paragraph 1:
- “1. Accounts of the scheme shall –
- (a) show a true and fair view of –
    - (i) the financial transactions of the scheme during the scheme year,  
and
    - (ii) the assets and liabilities at the end of the scheme year,  
and
  - (b) include disclosure of significant investment holdings.”;
- (p) in Schedule C, by the insertion of the following paragraphs after paragraph 23 -
- “24. In the case of prospective members referred to in article 11(3A) -
- (a) information on any relevant options available including investment options;
  - (b) information on whether and how environmental, climate, social and corporate governance factors are considered in the investment approach, and
  - (c) where members bear investment risk or can take investment decisions, information on the past performance of the investments related to the

pension scheme for a minimum of five years, or for all the years that the scheme has been operating where this is less than five years and information on the costs borne by members and beneficiaries.

25. In the case of a scheme to which the Regulations of 2021 apply -

- (a) the mechanisms protecting accrued entitlements or the benefit reduction mechanisms, if any;
  - (b) where members bear investment risk or can take investment decisions, information on the past performance of investments related to the scheme for a minimum of five years, or for all the years that the scheme has been operating where this is less than five years, and
  - (c) in the case of a defined contribution scheme or the DC Element of a defined benefit scheme, the structure of costs borne by members and beneficiaries.”;
- (q) in Schedule I, by the insertion of the following paragraph after paragraph 9:

“10. Where members bear investment risk or can take investment decisions, information on the past performance of investments related to the scheme for a minimum of five years, or for all the years that the scheme has been operating where this is less than five years.”.



GIVEN under my Official Seal,  
25 November, 2021.

HEATHER HUMPHREYS,  
Minister for Social Protection.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations amend S.I. No. 301 of 2006 in order to, amongst other things, give further effect to Directive (EU) 2016/2341 by –

- in Regulation 4, by amending a number of definitions;
- by amending Regulation 5 relating to Audited Accounts;
- by amending Regulation 6 relating to Valuation Reports;
- in Regulation 9, by providing that a copy of the latest audited accounts and annual report shall be publicly disclosed and made available free of charge on request to the relevant persons or representatives within 4 weeks of a request being made and making a number of technical amendments;
- in Regulation 10, to oblige the trustees of a scheme to –
  - o notify members and beneficiaries, or a representative, of any relevant information in respect of changes to the scheme rules, within a specified time period, and to provide, with that notification, copies of the relevant documentation;
  - o furnish copies of the documents relating to the constitution of a scheme, free of charge, to every member or beneficiary within 2 months of the person becoming a member or benefits becoming payable from the scheme to the person concerned, and
  - o provide copies of the documents relating to the constitution of a scheme to prospective members before they become members of a scheme;
- inserting a new Regulation 10A to specify the manner in which information shall be provided under these Regulations by the trustees to members of a scheme to which the Regulations of 2021 apply;
- in Regulation 11, by amending the disclosure of information requirements in relation to basic information about the scheme and specifying when the relevant information shall be provided to members, beneficiaries, representatives or prospective members of a scheme to which the Regulations of 2021 apply;
- in Regulation 13, by specifying that the Statement of Reasonable Projection shall be provided until the first Pension Benefit Statement is made available;
- in Regulation 14 in respect of the information to be made available to a member on termination of relevant employment;
- in Regulation 15, by amending the information to be made available on retirement or death of a member or beneficiary;
- in Regulation 18, by specifying that the information to be made available in relation to the investment strategy shall also be made available on request to a beneficiary;

- the insertion of a new Regulation 18A to specify the information to be made available where members bear an investment risk and when such information shall be furnished;
- in Regulation 19, by providing that information and documents may be serviced by electronic means as well as by ordinary post;
- the deletion of Regulation 22 which provides for the disclosure of information to EIOPA, and
- by making of a number of amendments in respect of the information to be provided under Schedules A, C and I.

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