



STATUTORY INSTRUMENTS.

S.I. No. 499 of 2023

OCCUPATIONAL PENSION SCHEMES (PRESERVATION OF
BENEFITS) (AMENDMENT) REGULATIONS 2023

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BENEFITS) (AMENDMENT) REGULATIONS 2023

I, HEATHER HUMPHREYS, Minister for Social Protection, in exercise of the powers conferred on me by section 5, section 35 (as amended by section 44 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006)) and section 37 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 with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform (as adapted by the Public Expenditure and Reform (Alteration of Name of Department and Title of Minister) Order 2023 (S.I. No. 19 of 2023)), hereby make the following Regulations:

Citation

1. These Regulations may be cited as the Occupational Pension Schemes (Preservation of Benefits) (Amendment) Regulations 2023.

Amendment to regulations

2. The Occupational Pension Schemes (Preservation of Benefits) Regulations 2002 (S.I. No. 279 of 2002) are amended by –

(a) in Regulation 2 by -

- (i) in the definition of “affiliated employer”, by the substitution “of section 7 of the Companies Act 2014 (No. 38 of 2014)” for “of section 155 of the Companies Act, 1963, (No. 33 of 1963)”;
- (ii) the substitution of the following definition for the definition of “authorised trade union”:

“ “authorised trade union” means a trade union which holds a negotiation licence under Part II of the Trade Union Act 1941 (No. 22 of 1941);”;
- (iii) in the definition of “confinement”, by the substitution of “section 51 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005)” for “section 28 of the Social Welfare (Consolidation) Act, 1981”;
- (iv) the substitution of the following definition for the definition of “notify the member”:

“ “notify the member” means delivering a notice to the person to whom it relates which shall be addressed to the person by name and shall be given, sent or served to the person in one of the following ways:

 - (i) by delivering it to the person;

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 24th October, 2023.*

- (ii) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (iii) by sending it by post in a pre-paid registered letter or by any other form of recorded delivery to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (iv) by means of any electronic method;”;
- (b) in Regulation 3(1)(a), by the substitution of “€20,000” for “€10,000”;
- (c) in Regulation 6(b), by the substitution of the following subparagraph for subparagraph (iii) -
 - “(iii) the Maternity Protection Acts 1994 and 2004 (No. 34 of 1994 and No. 28 of 2004) or section 81A of the Act requires that such period is a period of membership of the scheme.”, and
- (d) by the substitution of the following for the Schedule:

Schedule - Schemes Excluded from the Provisions of Part III of the Act

Regulation 11

Part I

Agricultural Colleges Staff Superannuation Scheme 1985

An Bord Pleanála (Chairman and Members) Superannuation Scheme 1986

An Bord Pleanála Staff Superannuation Scheme 1986

An Bord Tráchtála Staff Superannuation Scheme 1976

An Chomhairle Ealaíon Staff Superannuation Scheme 1976

An Post Main Superannuation Scheme 1990

An tÚdarás um Ard-Oideachas (Higher Education Authority) Staff Superannuation Scheme 1980

Bord Bainne Cheantar Bhaile Átha Cliath Superannuation Scheme

Bord Bainne Cheantar Chorcaighe Superannuation Scheme

Bord na gCapall Superannuation Scheme 1980

Bord na gCon Superannuation Scheme

Bord Iascaigh Mhara Craft and Manual Employees Superannuation Scheme

Bord Iascaigh Mhara Staff Superannuation Scheme 1990

Bord Scannán na hÉireann Superannuation Scheme

Central Bank and Financial Services Authority of Ireland Superannuation Scheme 2008

Central and Regional Fisheries Boards' Staff Superannuation Scheme 1983

CERT Superannuation Plan

Chester Beatty Library Staff Superannuation Scheme 1995

Civil Service (Established Staff) Superannuation Acts 1834 to 1963 and Superannuation and Pensions Act 1976

Civil Service (Unestablished Staff) Non-Contributory Pension Scheme for Non-Established State Employees

Coillte Teoranta No. 2 Fund

Colleges of Education Pension Scheme 1954

Colleges of Education Pension Scheme 1988

Combat Poverty Agency Superannuation Scheme 1997

Commission for Taxi Regulation Staff Superannuation Scheme

Commissioners for Taxi Regulation Superannuation Scheme

Competition Authority (Chairman and Members') Superannuation Scheme 1996

Contributory Pension Scheme for Clerical Staff serving in National and Secondary Schools

Contributory Pension Scheme for Non-Teaching Staff of Comprehensive and Community Schools

Contributory Superannuation Scheme for Members of Staff in Special Schools under the Department of Education 1980

Córas Iompair Éireann (Members) Superannuation Scheme 1960

Cork Harbour Commissioners Officers Superannuation Scheme 1983

Cork Harbour Commissioners Employees Superannuation Scheme 1991

Cork Pilotage Authority Pilot Boatmen Superannuation Scheme B

Crafts Council of Ireland Ltd. Staff Superannuation Scheme 1986

Crisis Pregnancy Agency Employee Superannuation Scheme 2007

Custom House Docks Development Authority Chairman's Superannuation Scheme 1990

Custom House Docks Development Authority Superannuation Scheme 1996

Data Protection Commissioner Superannuation Scheme 1993

Dublin Docklands Development Authority Superannuation Scheme 2000

Dublin Institute for Advanced Studies (Superannuation) Scheme 1947

Dublin Institute for Advanced Studies Non-Established Employees (Superannuation) Scheme 1983

Dublin Port and Docks Board Established Employees Superannuation Scheme 1960

Dublin Port and Docks Board Officers Superannuation Scheme 1961

Dublin Port and Docks Board Unestablished Employees Scheme 1960

Dublin Port and Docks Board Unestablished Employees Scheme 1991

Dublin Transport Authority Staff Superannuation Scheme 1987

Education Sector Superannuation Scheme 2001

Electricity Supply Board General Employees Superannuation Scheme

Electricity Supply Board (Members) Superannuation Scheme 1961

Environmental Protection Agency (Director General and Directors) Superannuation Scheme 1996

Environmental Protection Agency Staff Superannuation Scheme 2001

Environmental Research Unit Staff Superannuation Scheme 1993

EOLAS - The Irish Science and Technology Agency Staff Superannuation (Amendment) No. 1 Scheme 1994

EOLAS - The Irish Science and Technology Agency Staff Superannuation (Amendment) No. 2 Scheme 1994

FÁS Superannuation Scheme 1998

FÁS (Closed) Superannuation Scheme 1998

Food Safety Authority of Ireland Staff Superannuation Scheme 2000

Garda Síochána Pensions Orders 1925 to 1981

Heritage Council Staff Superannuation Scheme 2005

Housing Finance Agency plc Staff Superannuation Scheme 1993

Industrial Development Authority Staff Superannuation Scheme 1970

Institiúid Teangeolaíochta Éireann Staff Superannuation Scheme 1986

Irish Aviation Authority Staff Superannuation Scheme 1996

Irish Aviation Authority Staff Superannuation Scheme 2008

Labour Court (Members) Superannuation Scheme 1971

Law Reform Commission Superannuation Scheme 1982

Lay Land Commissioners Superannuation Scheme 1979

Legal Aid Board Staff Superannuation Scheme 1981

Limerick Harbour Commissioners Employees' Superannuation Scheme 1982

Limerick Harbour Commissioners Officers Superannuation Scheme 1962

Limerick Harbour Commissioners Officers (Established Officer - Miscellaneous Categories) Superannuation Scheme 1962 and (First Amending Scheme) 1972 and Regulations

Limerick Harbour Commissioners (Established Employees - Miscellaneous Categories) Superannuation Scheme 1985

Marine Institute Staff Superannuation Scheme 1998

National Building Agency Limited (Superannuation Revision) (Consolidation) Scheme 1991

National College of Art and Design Staff Superannuation Scheme 1984

National Concert Hall Company Staff Superannuation Scheme 1987

National Council for Educational Awards Staff Superannuation Scheme 1987

National Institute for Physical Planning and Construction Research Limited (An Foras Forbartha Teoranta) Superannuation Scheme 1975

National Roads Authority Superannuation Scheme 2002

National Safety Council Staff Superannuation Scheme 1991

National School Teachers' Superannuation Scheme 1934

National Standards Authority of Ireland Superannuation Scheme 2006

National Treasury Management Agency Pension Scheme

National University of Ireland General Pension Scheme

National University of Ireland Maynooth Pension Plan

NIHE Dublin Superannuation Scheme 1985

NIHE Limerick Superannuation Scheme 1982

Nominated Health Agencies Superannuation Scheme 1981

North/South Pension Scheme

Nuclear Energy Board (An Bord Fuinnimh Núicléigh) Staff Superannuation Scheme 1985

Ombudsman Superannuation Scheme 1987

Pension Scheme for the Directors/Deputy Directors in Special Schools under the Department of Education and Science

Pension Scheme for the Staff of Colleges of Home Economics 1987

Personal Injuries Assessment Board Employee Superannuation Scheme 2008

Pier and Harbour Provisional Order Confirmation Act 1941 (Waterford Harbour Order 1941)

Radio Telefís Éireann Superannuation Scheme

Regional Tourism Organisations Pension and Life Assurance Scheme

Restrictive Practices Commission (Members) Superannuation Scheme 1981 to 1986

Road Safety Authority Superannuation Scheme

Royal Irish Academy Staff Scheme 1997

Royal Irish Academy Pension and Life Assurance Scheme 1964

Royal Irish Academy of Music Staff Superannuation Scheme 1989
 Scéim Aoisliúntas Fhoireann Bhord na Gaeilge 1982
 Scéim Aoisliúntas Fhoireann Údarás na Gaeltachta 1991
 Secondary Teachers' Superannuation Scheme 1929
 Shannon Free Airport Development Company Limited (General Employees) Superannuation Scheme 1966
 Single Public Service Pension Scheme
 St. Patrick's College Maynooth Non-Contributory Pension Plan
 St. Laurence's Hospital Superannuation Scheme 1945
 Superannuation (Education) Scheme 2004
 Superannuation Scheme for Employees of the Pilotage Authority of the Dublin Pilotage District 1994
 Superannuation Scheme for officers employed under the scheme for the provision of (Oireachtas) secretarial assistance
 Teagasc Staff Superannuation Scheme
 Temple Bar Properties Limited Staff Superannuation Scheme 1999
 The Irish Goods Council Contributory Pension and Life Assurance Scheme
 The Pensions Board Staff Superannuation Scheme 1993
 Thomond College of Education Limerick Superannuation Scheme 1984
 Tourist Traffic Act 1952 (General Employees) Consolidating and Amending Superannuation Scheme 1992 (Bord Fáilte Eireann)
 University College Cork Pension Scheme Statute LXXIX
 University College Dublin Pension Scheme Statute XCVI
 University College Dublin Pre-1978 Pension Scheme
 University College Galway Pension Scheme Statute XVII Chapter XXV
 University College Galway Pension Scheme Statute LXI
 University College Galway Pension Scheme Statute CLXI
 University of Dublin Trinity College Pension Scheme
 Vocational Teachers' Superannuation Scheme 1998
 Voluntary Health Insurance Board Superannuation Scheme 1965
 Voluntary Hospitals (Officers) Superannuation Scheme 1969
 Voluntary Hospitals (Non-Officers) Superannuation Scheme 1985
 Waterford Harbour Commissioners Employees' Superannuation Scheme 1985
 Waterford Harbour Commissioners (Established Employees - Miscellaneous Categories) Superannuation Scheme (Confirmation) Order 1985
 Any defined benefit scheme established under the Courts and Courts Officers Acts 1926 to 2003

Any defined benefit scheme established under the Electricity Regulation Act 1999 (as amended)

Any defined benefit scheme established under the Gas Act 1976

Any defined benefit scheme or regulation made under the Local Government (Superannuation) Act 1980

Any defined benefit scheme established under the National Disability Authority Act 1999

Any defined benefit scheme established under the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992

Any defined benefit scheme established under the Water Services Act 2013

Any defined benefit scheme established under the Water Services (No. 2) Act 2013

Any defined benefit scheme established under the Water Services Act 2014

Any defined benefit scheme established under the third Schedule to the Qualifications (Education and Training) Act 1999

Any defined benefit scheme established or continuing under Paragraph 3 of the second Schedule to the Industrial Development Act 1993 (as amended under section 39(3) of part IV of the Industrial Development (Enterprise Ireland) Act 1998)

Any defined benefit scheme established in accordance with article 3.xxi of the memorandum of association of the Irish Museum of Modern Art Company

Any defined benefit scheme established under section 3 of the Ombudsman (Defence Forces) Act 2004

Any defined benefit scheme established under section 4 of the European Assembly (Irish Representatives) Act 1979

Any defined benefit scheme established under section 5 of the Ombudsman for Children Act 2002

Any defined benefit scheme established under section 6 of the second Schedule to the Official Languages Act 2003

Any defined benefit scheme established under section 6A of the Oireachtas (Allowances to Members) Act 1938 (as inserted by section 5 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1960)

Any defined benefit scheme established under article 7(8) of the Affordable Homes Partnership (Establishment) Order 2005

Any defined benefit scheme made under section 8 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004

Any defined benefit scheme established under section 9 of the Agriculture (Research, Training and Advice) Act 1988

Any defined benefit scheme established under section 10(4) (g) of the Industrial Development Act 1995

Any defined benefit scheme established under section 11 of the Schedule to the Radio and Television Act 1988

Any defined benefit scheme established under section 11 of the Law Reform Commission Act 1975

Any defined benefit scheme established under section 12 of the Private Security Services Act 2004

Any defined benefit scheme established under section 13 of the Health and Social Care Professionals Act 2005

Any defined benefit scheme established under section 13(2) of the National Treatment Purchase Fund Board (Establishment) Order 2004 (S.I. No. 179 of 2004)

Pensions paid under sections 13 or 14 of the Ministerial and Parliamentary Offices Act 1938

Any defined benefit scheme established under section 14 of the Schedule to the Milk (Regulation of Supply) Act 1994

Any defined benefit scheme established under section 14 of the Teaching Council Act 2001

Any defined benefit scheme established under section 15 of the Comhairle Act 2000

Any defined benefit scheme established under section 15 of Schedule 1 to the Pharmacy Act 2007

Any defined benefit scheme established under section 17 of the Court Services Act 1998

Any defined benefit scheme established under Regulation 17 of the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000)

Any defined benefit scheme established under section 17 of the Family Support Agency Act 2001

Any defined benefit scheme established under section 17 of the Ordnance Survey Ireland Act 2001

Any defined benefit scheme established under section 17 of the Sustainable Energy Act 2002

Any defined benefit scheme established under sections 20 or 21 of the Aviation Regulation Act 2001

Any defined benefit scheme established under section 20 of the Companies (Auditing and Accounting) Act 2003

Any defined benefit scheme established under section 20 of the Human Rights Commission Act 2000

Any defined benefit scheme established under sections 20, 38 or continuing under 39(3) of the Industrial Development (Enterprise Ireland) Act 1998

Any defined benefit scheme established under section 21 of the Digital Hub Development Agency Act 2003

Any defined benefit scheme established under section 21 of the Industrial Development (Science Foundation Ireland) Act 2003

Any defined benefit scheme established under section 22 of the National Oil Reserves Agency Act 2007

Any defined benefit scheme established under section 23 of the Health Act 2004

Any defined benefit scheme established under section 23 of the Irish Sports Council Act 1999

Any defined benefit scheme established under section 25 of the Grangegorman Development Agency Act 2005

Any defined benefit scheme established under section 25(7) and the fifth Schedule to the Universities Act 1997

Any defined benefit scheme established under sections 26 or 27 of the Communications Regulation Act 2002

Any defined benefit scheme established under section 27 of the Health Act 2007

Any defined benefit scheme established under section 28 of the Health Insurance Authority Act 1994

Any defined benefit scheme established under section 29 of the Western Development Commission Act 1998

Any defined benefit scheme established under section 32 of Public Health (Tobacco) Act 2002

Any defined benefit scheme established under section 33 of the National Cultural Institutions Act 1997

Any defined benefit scheme established under section 35 of An Bord Bia Act 1994

Any defined benefit scheme established under section 36 of the Consumer Protection Act 2007

Any defined benefit scheme established under section 36 of the National Tourism Development Authority Act 2003

Any defined benefit scheme established or continuing under section 44 of the Competition Act 2002

Any defined benefit scheme established under section 40 of the Mental Health Act 2001

Any defined benefit scheme established under section 41 of the Education (Welfare) Act 2000

Any defined benefit scheme established or continuing under section 56 of the Safety, Health and Welfare at Work Act 2005

Any defined benefit scheme established under sections 59 or 60 of the Sea-Fisheries and Maritime Jurisdiction Act 2006

Any defined benefit scheme established under sections 66 or 116 of the Garda Síochána Act 2005

Any defined benefit scheme established under section 130 of the Pensions Act 1990 (inserted by section 5 of the Pensions (Amendment) Act 2002)

Any defined benefit scheme established under section 163 of the Residential Tenancies Act 2004

Any defined benefit scheme established under sections 184 or 239 of the Children Act 2001

Benefits payable under the Telecom Éireann Superannuation Scheme 1998 (as amended) which are payable out of the Eircom No. 2 Fund

Part II

Schemes for the purpose of providing benefits to the spouses and children of members of any of the schemes specified in Part I in the event of the death of a member."

The Minister for Public Expenditure, National Development Plan Delivery and Reform consents to the making of Regulation 2(d) of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Public Expenditure, National Development Plan Delivery and Reform,

29 August, 2023.

PASCHAL DONOHOE,

Minister for Public Expenditure, National Development Plan Delivery and Reform.



GIVEN under my Official Seal,

17 October, 2023.

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 the Occupational Pension Schemes (Preservation of Benefits) Regulations 2002 (S.I. No. 279 of 2002), as amended, in order to –

- amend various definitions set out in Article 2;
- amend Article 3(1)(a) to provide that for the purposes of section 35 of the Pensions Act 1990, the trustees of an occupational pension scheme may effect a transfer payment from the scheme, without the consent of the member concerned, where the total amount of the transfer payment from the scheme in respect of that member is less than €20,000;
- make a technical amendment to Article 6(b)(iii) to ensure that the legislation referenced therein refers to extant legislation, and
- revise the list of schemes exempt from the preservation requirements set down in Part III of the Pensions Act 1990.

That Act provides for the preservation of pension benefits for members of occupational pension schemes who leave the relevant employment before normal pensionable age and who have completed a minimum service of at least two years. This preserved benefit is a proportion of the benefits to which the member would have been entitled if he or she had remained in the relevant employment until normal pensionable age.

This list amends the Schedule to the Occupational Pension Schemes (Preservation of Benefits) Regulations 2002 (S.I. No. 279 of 2002), as amended by Article 2 of the Occupational Pension Schemes (Preservation of Benefits) (Amendment) Regulations 2009 (S.I. No. 70 of 2009), which specifies the occupational pension schemes exempt from the preservation requirements of the Pensions Act.

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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

ISBN 978-1-3993-2651-3



€3.50

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