

**Note on new Disclosure Requirements
introduced by the
Occupational Pension Schemes (Disclosure of Information)
Regulations 2005**

Background to the New Regulations

These regulations revoke and replace the OPS (Disclosure of Information) (No. 2) Regulations, 1998 as amended on a phased basis.

These regulations are based on the recommendations made by the Board in its report of June 2000 to the Minister for Social, Community and Family Affairs "Disclosure and other issues arising on consideration of the implementation of those recommendations. They are also intended to implement various other recommendations made in Board reports, certain provisions of the Pensions (Amendment) Act 2002 and the disclosure requirements of Directive 2003/41 EC on the activities and supervision of institutions for occupational retirement provision (IORPs Directive).

The explanations of each article set out below are not intended to be exhaustive or comprehensive.

It should be noted that new Guidance notes on these regulations and accompanying information booklets will issue in due course.

Explanation of each of the Articles of the new Regulations

Article 1 sets out the commencement dates for various articles of the new Regulations:

Article 5 – the requirement to produce audited accounts for all schemes with over 100 members (members includes deferred and active members) commences on 23rd September 2005 and applies to all scheme years commencing on or after that date.

Article 6 – Valuation reports - 23 September 2005

Article 7 – the requirement to produce annual reports to accompany the audited accounts. The new regulations in this regard commence on 23rd September 2005 and apply to all scheme years commencing on or after that date. – applies to scheme years commencing on or after 23rd September 2005.

Article 8- the facility for some schemes to produce an alternative annual report. Schemes with greater than 100 members will no longer be entitled to produce an alternative annual report. They will have to produce a full set of audited accounts in relation to each scheme year commencing on or after 23rd September 2005. This means that a DC scheme with greater than 100 members with a year end of 1 December will produce its last alternative annual report under the old regulations for the year ending 1 December 2005. It will be required to produce its first full annual report with audited accounts for the year ending 1 December 2006.

Article 9 – Disclosure of Reports –audited accounts, valuation reports and annual reports

- in so far as it relates to articles 5,7, and 8 in relation to each scheme year commencing on or after 23 September 2005, on 23 September 2005.
- in so far as it relates to article 6, on 23 September 2005

Article 10 – Disclosure of Information in relation to schemes (Constitution of schemes) – 23 September 2005

Article 11 – Disclosure of Information in relation to schemes – basic information about the scheme – 1 January 2007.

Article 12- Disclosure of Information in relation to schemes – General requirements relating to information to be made available to individuals under articles 13 to 18

- in so far as it relates to articles 14 and 18 - 23 September 2005
- in so far as it relates to Articles 13, 15, 16 and 17 - 1 January 2007

Article 13 – Information to be available – member or prospective member in employment – 1 January 2007

Article 14 – Information to be made available on termination of relevant employment - 23 September 2005

Article 15 – Information to be made available –retirement or death of a member or beneficiary – 1 January 2007

Article 16 except Article 16(3) – Information to be made available in relation to a scheme in wind up - 1 January 2007

Article 16(3) - Information to be made available in relation to a small scheme in wind up – 1 July 2006

Article 17 – Information to be made available in relation to Pension Adjustment Orders – 1 January 2007

Article 18 – Information to be made available on investment alternatives and default investment strategy – 23 September 2005

Article 19 – Service of Documents - 23 September 2005

Article 2 sets out the revocation dates for various articles of the 1998 regulations.

These dates coincide with the phased introduction of the various articles of the 2005 regulations.

Article 2 – SI 112 of 1998 -already revoked prior to 2005 Regulations

Article 3 – Definitions – revoked 1 January 2007

Article 4 – audited accounts - revoked in relation to each scheme year commencing on or after 23 September 2005

Article 5 – actuarial valuations – revoked 23rd September 2005

Article 6 – annual reports – revoked in relation to scheme years commencing on or after 23 September 2005

Article 7 – alternative arrangements for annual reports and audited accounts – revoked in relation to each scheme year commencing on or after 23 September 2005

Article 8 – Disclosure of information in relation to the constitution of the scheme – revoked 23rd September 2005

Article 9 – Disclosure of basic information about the Scheme Schedule C – 1 January 2007

Article 10 – Disclosure of information in relation to schemes – information to be made available to individuals

- in so far as it relates to article 12 - revoked 23 September 2005
- in so far as it relates to articles 11, 13, 14 and 15 – revoked 1 January 2007

Article 11 – Information to be made available to a member or prospective member in relevant employment Schedule D – 1 January 2007

Article 12 – Information to be made available on termination of employment – revoked 23 September 2005

Article 13 – Information to be made available – retirement or death of a member or beneficiary – Schedule F – 1 January 2007

Article 14 – Information to be made available – wind up of scheme – 1 January 2007

Article 15 – Information to be made available – pension adjustment orders – 1 January 2007

Article 16 – Service of information and documents – revoked 23 September 2005

Article 3 Interpretation

This article explains how the regulations are to be read and referred to.

Article 4 Definitions

This article defines the terms used in the Regulations.

Article 5 Audited Accounts

Operative date – 23 September 2005. This article applies to scheme years commencing on or after 23 September, 2005.

(e.g. a DC scheme with more than 100 members has a year end of 1 December. The requirement to have the accounts audited first applies to the scheme for the scheme year ended 1 December 2006) – applies to scheme years commencing after 23rd September 2005.

Main changes

Audited accounts must be produced for all Defined Contribution schemes with greater than 100 members. (Members include both active and deferred members).

Single member defined contributions schemes are specifically exempted from the requirement to produce audited accounts.

Article 6 Valuation Reports

Operative date- 23 September 2005

Changes introduced

For new defined benefit schemes established after 23rd September 2005 Actuarial valuations must be produced not later than three years after the commencement of the scheme and subsequent valuations must be produced not later than three years after the effective date of the immediately preceding valuation.

For defined benefit schemes established prior to 23rd September 2005 the first actuarial valuation certificate produced on or after 23rd September 2005 can have an effective date of three and a half years from the previous one, but all subsequent certificates should have an effective date not later than three years after the date of the immediately previous valuation.

The trustees of a defined contribution scheme must now cause the liabilities of the scheme to be valued annually as at the last day of each scheme year and cause a report of that valuation to be prepared as soon as reasonably practicable thereafter.

Article 7 Annual Reports

Operative date –23 September 2005. This article applies to scheme years commencing on or after 23 September, 2005.

Changes introduced

This article applies in respect of each scheme year commencing on or after 23rd September 2005.

It is specifically provided that one member Defined contribution schemes do not have to prepare annual reports.

Main additional information required in the Annual Report

- 1- Where a funding proposal has been prepared for a defined benefit scheme, the scheme must include the details of the measures proposed in that funding proposal in the annual report in each annual report to which the funding proposal relates e.g. contributions being made by the employer, extension of time requested etc.
- 2- The number of members in relevant employment who are only covered for death benefits;
- 3- The latest statement of investment policy principles;
- 4- A statement as to whether trustees have access to appropriate training on their duties and responsibilities as trustees;

- 5- A statement by trustees that they have appropriate procedures in place to ensure contributions payable have been received either in accordance with section 58A where applicable and otherwise within 30 days of the end of the scheme year, and contributions have been paid in accordance with rules and if appropriate the recommendation of the actuary;
- 6- A statement concerning the condition of the pension scheme in particular, the financial, technical and other risks associated with the scheme unless already disclosed with the information provided under article 11;
- 7- A statement explaining the procedure to comply with the Pensions Ombudsman internal dispute resolution mechanism;

Article 8 Alternative arrangements for annual reports and audited accounts for certain schemes

Operative date –23 September 2005. This article applies to scheme years commencing on or after 23 September, 2005.

Changes introduced

Small Defined Benefit schemes and small Defined Contribution schemes do not have to produce audited accounts and full form annual report. Small schemes are schemes with less than 100 members (members include deferred and active members)

Instead such schemes may produce an alternative annual report. Previously there were two types of Alternative Annual Report, namely Alternative Annual Report A and Alternative Annual Report B. These two types of alternative annual report have been replaced by a single alternative form of annual report.

The main additional information that must be included in the single form alternative annual report is as follows:

- A statement of the amount of the contributions received by the scheme during the scheme year;
- the numbers of members in relevant employment who are only covered for death benefits.
- a statement as to whether the trustees have access to appropriate training on their duties and responsibilities.
- a statement concerning the condition of the pension scheme in particular financial, technical and other risks and their nature and distribution.
- a statement explaining the IDR process.
- a statement of investment policy principles
- Details of measures proposed in any funding proposal prepared in accordance with section 49
- a copy of the valuation report for the scheme year
- a statement to the effect that the scheme has not been audited by an auditor

Article 9 – Disclosure of reports – audited accounts, valuation reports and annual reports

Operative date in so far as it relates to Articles 5,7 and 8 in relation to each scheme year commencing on or after 23 September 2005, on 23 September 2005.

Operative date in so far as it relates to article 6, on 23 September 2005.

There is nothing new in this Article. It sets out when the information in the annual reports, valuation reports, accounts and audited accounts must be made available. The time limits have not changed and it tidies up Articles 5, 7 and 8 of the Disclosure Regulations by removing this detailed information from them and inserting it as a separate article.

Article 10 – Disclosure of Information in relation to schemes – constitution of the scheme

Operative Date : 23 September 2005

There are no changes to this Article

Article 11 – Disclosure of Information in relation to schemes – basic information about the scheme

This article comes into operation on 1 January 2007.

This article deals with the Schedule C information which a scheme must provide to members. This information is usually comprised in the scheme booklet.

The only significant additional information which must be provided to a member is that if the scheme is integrated there should be a statement describing integration. A template is provided.

Article 12 – Disclosure of Information in relation to schemes – general requirements relating to information to be made available to individuals under articles 13 – 18.

This article comes into operation in so far as it relates to articles 14 and 18 on 23 September 2005 and in so far as it relates to articles 13,15, 16 and 17 on 1 January 2007.

This article has not changed except that it refers to additional articles which were not in the 1998 regulations.

Article 13 – Information to be made available – member or prospective member in relevant employment.

This article comes into operation on 1 January 2007.

This article sets out the information that must be furnished annually to members of defined benefit schemes, defined contribution schemes and one member schemes.

The information must relate to a date not earlier than three months before the date upon which such information is furnished

For Defined Benefit schemes the main additional new Personal statement requirements are:-

- 1- The statement of the amount of benefits payable at normal pension age may now be calculated with or with or without regard to pensionable allowances or other emoluments which may not feature in pensionable remuneration at normal pensionable age.
- 2- For service after 1 January 2007, there should be a statement of the amount of benefits payable from normal pensionable age, if service were to terminate immediately.
- 3- Any additional benefits which have been secured on a DB basis by way of avcs etc should be included in the statements at 1 and 2.
- 4- if the scheme provides an integrated pension the inclusion of a statement that the scheme takes account of the social welfare pension.
- 5- if the social welfare pension is in addition to the occupational pension that receipt of the social welfare pension is subject to tests administered by the Department of Social and Family Affairs.
- 6- A statement that the method of calculations of contributions payable is set out in the scheme rules
- 7- A statement regarding who the member should contact if he believes contributions payable have not been paid
- 8- A statement that the trustees are required to ensure in so far as reasonable that contributions payable under s59A are received.

For all defined contribution schemes including one member schemes and the defined contribution element of a defined benefit scheme, the main additional new Personal Statement requirements are:

- 1- a statement of reasonable projection specifying the level of benefits which could be reasonably expected at a specified date to be payable based on contributions paid and proposed contributions.
- 2- if the scheme provides an integrated pension the inclusion of a statement that the scheme takes account of the social welfare pension.
- 3- a statement that qualification for the social welfare pension is subject to tests administered by the Department of Social and Family Affairs.
- 4- there is a new format for the annual benefit statement for DC schemes. It should explain the breakdown of contributions received in respect of DC members.
- 5- In addition to the annual requirement on the trustees to provide a statement of reasonable projection for a DC scheme, the trustees should also provide a statement of reasonable projection when a person becomes a member or a transfer in is received in respect of a member are there is a material alteration of the scheme benefits.

Different information requirements may apply in respect of public authorities

Article 14 Information to be made available – termination of relevant employment

Operative date 23rd September 2005

Defined Benefit scheme

Members must be told where the transfer value available to them is reduced and if so, by how much.

Defined Contribution scheme

A statement of reasonable projection must be supplied where employment is terminated.

Article 15 Information to be made available – retirement or death of a member or beneficiary

Operative date 1 January 2007

The members of a defined contribution scheme must be made aware of their option to take a lower initial pension with escalation instead of a pension of a fixed amount.

Article 16 Information to be made available – scheme in wind up

Operative date 1 January 2007 except article 16.3 which commences on 1 July 2006.

New requirements for large Defined Benefit schemes

If any money is available for transfer out members must be told if the amount available is reduced in accordance with section 34(2) and of the amount of the reduction.

New requirements for large Defined Contribution schemes and the Defined Contribution element of a Defined Benefit scheme

A statement of reasonable projection must be supplied where the scheme is wound up.

Modifications for small schemes

Small schemes in wind up do not have to comply with the annual reporting, audited accounts or valuation report requirements as long as they provide a report setting out the information listed in Schedule G to the Board within three months of the commencement of the wind up and annually thereafter. Members and other specified persons are entitled to this report on request.

The report should provide the following information:

- Date of wind-up event;
- Estimate of realisable value of the assets;
- Estimate of cost of discharging liabilities;
- A statement of the receipts and disbursements since the commencement of winding up to the date of the report;
- A summary report as to the progress of the dissolution of the scheme;
- Any other information that the Board may specifically request.

Article 17 Information to be made available – pension adjustment orders

Operative date 1 January 2007

The only new information here is that the non member spouse must be told if the estimated transfer amount available to her has been reduced in accordance with section 34(2) and if so by what amount.

Article 18 Information to be made available – investment alternatives and default investment strategy for Defined Contribution schemes and the DC element of a DB scheme

Operative date 23 September 2005

This is a new article.

It requires the trustees to furnish members within three months of a request with the information set out in schedule I where the scheme provides for member investment options.

The information in Schedule I is:

- The investment alternatives;
- The default investment strategy;
- The identity of the investment manager;
- Brief description of each investment alternative, risks etc;
- Explanation of how members may give directions etc.;
- A description of the charges levied on each investment alternative;
- Name and address of persons to whom enquiries about investment alternatives should be sent;
- If the scheme rules include a provision that the trustees are not liable for poor investment returns a statement to that effect;
- Information on the investment portfolio, risk exposures and costs related to investments.

Article 19 **Service of Documents**

Operative date 23 September 2005

No liability whatsoever is accepted by the Pensions Board, its servants or agents for any errors or omissions in the information contained in this document or for any loss occasioned to any person acting or refraining from acting as a result of any statement in this document.