

**S.I. No. 301 of 2006**

**OCCUPATIONAL PENSION SCHEMES (DISCLOSURE OF INFORMATION)  
REGULATIONS, 2006**

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## **S.I. No. 301 of 2006**

### **OCCUPATIONAL PENSION SCHEMES (DISCLOSURE OF INFORMATION) REGULATIONS, 2006**

The Minister for Social and Family Affairs, in exercise of the powers conferred on him by section 5 (as amended by section 44 of the Social Welfare Law reform and Pensions Act 2006 (No. 5 of 2006)), 51, 54, 55, 56, 57 and 59 of the Pensions Act, 1990 (No.25 of 1990), hereby makes the following Regulations:-

#### **Citation and Commencement.**

1.(1) These Regulations may be cited as the Occupational Pension Schemes (Disclosure of Information) Regulations, 2006.

(2) These Regulations shall come into force as follows:

- (a) articles 5, 7, 8 and articles 4 and 9, in so far as they relate to articles 5, 7 and 8, in relation to each scheme year commencing on or after 23 September 2005, on 1 June 2006,
- (b) articles 2, 3, 6, 10, 14, 18, 19, article 4 in so far as it relates to articles 6, 10, 14, 18 and 19, article 9 in so far as it relates to article 6 and article 12 in so far as it relates to articles 14 and 18, on 1 June 2006, and
- (c) articles 4 and 12 in so far as they relate to all other articles and all other articles on 1 January 2007.

#### **Revocation.**

**2**

2.(1) The Occupational Pension Schemes (Disclosure of Information) (No.2) Regulations 1998 (S.I. No. 349 of 1998) are revoked as follows:

- (a) article 3 in so far as it relates to articles 9, 10, 11,13,14 and 15 on 1 January 2007,
- (b) article 10 in so far as it relates to all articles other than article 12, on 1 January 2007,
- (c) articles 9, 11, 13, 14, and 15 on 1 January 2007, and

(2) The Occupational Pension Schemes (Disclosure of Information) Regulations 2005 (S.I. No. 633 of 2005) are revoked.

## **Interpretation.**

**3.** In these Regulations, unless the context otherwise requires –

- (a) a reference to a Schedule is to a Schedule to these Regulations,
- (b) a reference to an article is to an article of these Regulations,
- (c) a reference to a sub-article is to a sub-article of the article in which the reference occurs,
- (d) a reference to a paragraph is to a paragraph of the sub-article, article or Schedule in which the reference occurs, and
- (e) a reference to a sub-paragraph is to a sub-paragraph of the paragraph in which the reference occurs.

## **Definitions.**

**4.** In these Regulations –

“accumulated value” has the meaning assigned to it by section 30 of the Act;

“the Act” means the Pensions Act, 1990 (No. 25 of 1990);

“affiliated employer” means another employer where one of the employers is a subsidiary (within the meaning of section 155 of the Companies Act, 1963, (No. 33 of 1963)) of the other, or where both employers are subsidiaries of a third employer;

“authorised trade union” has the meaning assigned to it by section 54(6) of the Act;

“concentration of investment” in relation to a scheme, means investments exceeding a stated percentage of the resources of the scheme in one undertaking and in any associate of it or in one property, other than in the following categories-

- (a) Government securities;
- (b) insurance policies;
- (c) contracts of assurance;
- (d) managed funds;
- (e) unit trusts; or
- (f) cash deposits.

“contingent benefit” has the meaning assigned to it in the Pension Schemes (Family

Law) Regulations, 1997 (S.I. No. 107 of 1997);

“DC Element” means a facility under a defined benefit scheme for the treatment of contributions or accrued rights or the receipt of transfers in respect of accrued rights (including transfer payments and transfer amounts) as if they had been paid or credited to or accrued under a defined contribution scheme;

“designated benefit” has the meaning assigned to it in the Pension Schemes (Family Law) Regulations, 1997;

“made available for inspection” means made available for inspection at a place which is convenient having regard to the circumstances of the request and to the person who made it;

“on request” means a request in writing for a specified document or item of information provided that, unless the context otherwise requires, any request made within 12 months of the last occasion on which a copy of the same document or information was made available or furnished to the same person shall not be deemed to be a valid request;

“One Member Arrangement” means a defined contribution scheme that has been established for one person only and that one person will always be the only member; unless the scheme is made the subject of a Pension Adjustment Order, in which case it may also include the person or persons referred to in the Pension Adjustment Order;

“Pension Adjustment Order” means an order made by the Court under Section 12 of the Family Law Act, 1995 (No. 26 of 1995) or Section 17 of the Family Law (Divorce) Act, 1996 (No. 33 of 1996);

“preserved benefit” has the meaning assigned to it by section 28 of the Act;

“relevant persons” means –

- (a) the members and prospective members of the scheme,
- (b) the spouses of members and of prospective members of the scheme,
- (c) persons within the application of the scheme qualifying or prospectively qualifying for its benefits, or
- (d) an authorised trade union representing the members or prospective members concerned in so far as the information is relevant to the rights of such members or prospective members of the scheme;

“scheme year” in relation to a scheme, means whichever of the periods specified in section 55(1) of the Act the trustees select;

“self-investment” in relation to a scheme, means investment of all or part of the resources of the scheme in the business of the employer of any person employed in relevant employment, or of an affiliated employer, and for this purpose the term “investment” shall be deemed to include-

- (a) shares or other securities issued by the employer or by an affiliated employer,
- (b) land which is occupied or used by or subject to lease in favour of the employer or an affiliated employer,
- (c) property, other than land, which is used for the purpose of any business carried on by the employer or an affiliated employer,
- (d) loans to the employer or an affiliated employer,
- (e) moneys due to the scheme held by the employer or an affiliated employer,

but shall not include moneys due by an employer to the relevant scheme, where such moneys are due for a period of less than that provided for under section 58A of the Act where applicable to such moneys and otherwise for a period of 30 days or less;

“Statement of Reasonable Projection – DC” means a statement prepared or caused to be prepared, in accordance with paragraph 25 of Part II of Schedule D or paragraph 13 of Part II of Schedule E, by the trustees of-

- (a) a defined contribution scheme, or
- (b) a defined benefit scheme with a DC Element,

for a member of that scheme under article 13(2), article 13(6) and article 14(4);

“transfer amount” has the meaning assigned to it in the Pension Schemes ( Family Law) Regulations, 1997.

### **Audited Accounts.**

5. (1) In this article "relevant scheme" means a scheme (other than a One Member Arrangement) to which section 56 of the Act applies.
- (2) Subject to article 8 , the trustees of a relevant scheme shall, in accordance with section 56 of the Act, cause-
- (a) the accounts of such a scheme to be audited by the auditor of the scheme in respect of each scheme year which commences on or after 23 September 2005, and
  - (b) the auditor's report to be prepared on the accounts,
- as soon as reasonably practicable after the end of the scheme year.

- (3) The audited accounts shall include the information specified in Schedule A to these Regulations which is applicable and material to the relevant scheme.
- (4) The auditor's report on the accounts of the relevant scheme shall include -
  - (a) a statement whether, in his opinion, the requirements of sub-article (3) are satisfied;
  - (b) a statement that, in his opinion, the accounts show a true and fair view of the financial transactions of the relevant scheme during the scheme year and of the amount and disposition of the assets and liabilities (other than liabilities to pay pensions and other benefits in the future) at the end of the scheme year;
  - (c) a statement that, in his opinion, contributions payable to the relevant scheme during the scheme year have been received by the trustees within 30 days of the end of the scheme year and that, in his opinion, such contributions have been paid in accordance with the rules of the relevant scheme and, if appropriate, with the recommendation of the actuary; and
  - (d) if any of the statements under paragraphs (a), (b) or (c) is qualified, a statement of the reasons.
- (5) The audited accounts of a relevant scheme shall be signed-
  - (a) by two trustees on behalf of the trustees or, if there is only one trustee, by that trustee; or
  - (b) if there is a person authorised under the rules of the scheme, by such person.
- (6) A person shall not be qualified for appointment as auditor of a relevant scheme, for the purposes of the Act if he is -
  - (a) a member or a trustee of the relevant scheme;
  - (b) a director or employee of any of the trustees of the relevant scheme; or
  - (c) the employer of any member employed in relevant employment or a director or employee of that employer or any affiliated employer.

### **Valuation Reports.**

6. (1) In this article "relevant scheme" means a scheme to which section 56, other than subsection (2A), of the Act applies.

- (2) The trustees of a relevant scheme shall, in accordance with section 56 of the Act, cause -
- (a) the resources and liabilities of the scheme to be valued by the actuary of the scheme at a date referred to in these Regulations as the "effective date", and
  - (b) the actuary's report to be prepared on the valuation

as soon as reasonably practicable after the effective date.

- (3) The effective date of the first actuarial valuation to be prepared under section 56(1) of the Act shall be-
- (a) in relation to a scheme other than an external scheme which is a relevant scheme which commenced before the 1st day of January, 1991, a date not later than the 31st day of December 1993, and
  - (b) in relation to a scheme other than an external scheme which is a relevant scheme which commenced on or after the 1st day of January, 1991 but before the 23<sup>rd</sup> September 2005, a date not later than 3½ years after the commencement of the relevant scheme,
  - (c) in relation to a scheme other than an external scheme which is a relevant scheme, which commenced on or after the 23<sup>rd</sup> September 2005, a date not later than 3 years after the commencement of the relevant scheme,
  - (d) in relation to a relevant scheme which is an external scheme which commenced before the 1st day of July 1991, a date not later than the 31st day of December 1994,
  - (e) in relation to a relevant scheme which is an external scheme which commenced on or after the 1st day of July 1991 but before the 23<sup>rd</sup> September 2005, a date not later than 3½ years after the commencement of the relevant external scheme, and
  - (f) in relation to a relevant scheme which is an external scheme which commenced on or after the 23<sup>rd</sup> September 2005, a date not later than 3 years after the commencement of the relevant scheme.
- (4) Subject to sub-article (5), the effective date of any subsequent actuarial valuation shall be a date not later than 3 ½ years after the effective date of the immediately preceding actuarial valuation or such later date as may be approved by the Pensions Board.
- (5) Where an actuarial valuation has been prepared, having an effective date on or after 23 September 2005, any subsequent actuarial valuation shall have an effective date not later

than 3 years after the effective date of the immediately preceding valuation.

- (6) The trustees of a defined contribution scheme shall, in accordance with section 56(2A) of the Act -
- (a) cause the liabilities of the scheme to be valued as at the last day of each scheme year, and
  - (b) cause a report of that valuation to be prepared as soon as reasonably practicable after the last day of each scheme year.
- (7) Subject to sub-article (8), a person shall not be qualified for appointment as actuary of a scheme, for the purposes of the Act, unless he is -
- (a) in the case of a scheme specified in Schedule C to the Occupational Pension Schemes (Funding Standard) Regulations, 1993, (S.I. No.419 of 1993),
    - (i) a Fellow Member of the Society of Actuaries in Ireland, or
    - (ii) a civil servant who is approved by the Minister with the consent of the Minister for Finance as being a proper person to act for the purposes of the Act in connection with that scheme, or
  - (b) in the case of a scheme not specified in Schedule C to the Occupational Pension Schemes (Funding Standard) Regulations, 1993, a Fellow Member of the Society of Actuaries in Ireland who has been granted and holds a valid Scheme Actuary Certificate under the rules of that Society:
- (8) Any person with other actuarial qualifications who, at any time prior to 1 April 1999, held an appointment as actuary of a scheme with the approval of the Minister under Article 5(8)(c) of the Occupational Pension Schemes (Disclosure of Information) Regulations 1991 (S.I. No.215 of 1991) and who satisfies the requirements of the Minister shall, for so long as such person satisfies the requirements of the Minister, continue to be qualified for appointment as actuary in connection with that scheme and may be approved by the Minister, at the request of the trustees of the scheme concerned, as being a proper person to act for the purposes of the Act in connection with any other scheme.

### **Annual Reports.**

7. (1) In this article "relevant scheme" means a scheme (other than a One Member Arrangement) to which section 55 of the Act applies.
- (2) Subject to article 8, the trustees of a relevant scheme shall, in accordance with section 55 of the Act, prepare, in respect of each scheme year commencing on or after 23 September

2005 , an annual report of the scheme as soon as reasonably practicable after the end of the scheme year.

- (3) A copy of the latest annual report prepared in accordance with this article, shall be made available in accordance with article 9(1).
- (4) The trustees shall inform the members of the relevant scheme then in relevant employment of the availability of the annual report not later than 4 weeks after the time specified in article 9(1).
- (5) The annual report in respect of a relevant scheme shall contain the following:
  - (a) a copy of the audited accounts in respect of the scheme year,
  - (b) a copy of the auditor's report on the accounts as specified in sub-article (4) of article 5 and where the auditor's report is qualified the trustees should state whether the matter has been resolved,
  - (c) where applicable, a copy of the latest actuarial funding certificate prepared under section 42 of the Act,
  - (d) details of the measures proposed in any funding proposal prepared in accordance with section 49 which relate to the scheme year in respect of which the annual report is being prepared,
  - (e) where applicable, a copy of the valuation report prepared in accordance with article 6(6) in relation to that scheme year, and
  - (f) such other information as is specified in paragraphs 1 to 18 and 23 of Schedule B in so far as it applies to the relevant scheme.
- (6) The annual report shall be signed by two trustees on behalf of the trustees or, if there is only one trustee, by that trustee.

## **Alternative arrangements for annual reports and audited accounts for certain schemes.**

### **8. (1) In this article -**

“relevant scheme” means any defined benefit scheme or any defined contribution scheme (other than a One Member Arrangement) which, at the commencement of the scheme year is a small scheme;

“relevant benefits” means immediate retirement benefits other than annuities which have been purchased and which match fully the pension obligations of the scheme in respect of specific individual members or other persons in respect of such members or both.

### **(2) In the case of a relevant scheme, the provisions of sections 55 and 56 of the Act shall be so modified that the trustees of a relevant scheme may, instead of complying with the provisions of articles 5 and 7, cause an annual report of the scheme to be prepared in respect of each scheme year commencing on or after 23 September 2005 in any of the following ways -**

- (a) by a person who could be appointed as an auditor of a relevant scheme,**
- (b) in the case of a relevant scheme where some or all of the relevant benefits are secured under one or more policies or contracts of assurance with the one undertaking (within the meaning of the Insurance Act, 1989 (No 3. of 1989)), by a person designated by the undertaking as authorised for that purpose, or**
- (c) in the case of a relevant scheme, where some or all of the relevant benefits are secured by one or more policies or contracts of assurance with more than one undertaking (within the meaning of the Insurance Act, 1989 (No.3 of 1989)), by a person designated as authorised for that purpose by the undertaking preparing the report provided always such undertaking shall obtain from the other undertakings a statement as to the relevant benefits secured under one or more policies or contracts of assurance with those undertakings,**

as soon as reasonably practicable after the end of the scheme year.

### **(3) The trustees shall inform the members of the relevant scheme, then in relevant employment, of the availability of the annual report not later than 4 weeks after the time specified in article 9(1).**

### **(4) Based on information provided to and reasonable enquiries having been made by, the preparer of an annual report to which this article applies, that report shall contain the following-**

- (a) a statement of the amount of the contributions received by the scheme during the scheme year,**

- (b) a statement that -
    - (i) contributions payable during the scheme year have been received by the trustees within 30 days of the end of the scheme year, and
    - (ii) contributions payable have been paid in accordance with the rules of the relevant scheme and if appropriate, with the recommendation of the actuary.
  - (c) If the statement under sub-paragraph (b)(i) or sub-paragraph (b)(ii) is qualified, a statement of the reasons;
  - (d) a statement of the manner in which the resources of the relevant scheme are invested including details of any self-investment at any time during the period covered by the report,
  - (e) the information specified in paragraphs 1, 2, 3, 4, 5, 6 , 11, 12 and 14 to 23 of Schedule B,
  - (f) details of the measures proposed in any funding proposal prepared in accordance with section 49 which relates to the scheme year in respect of which the annual report is being prepared, and
  - (g) where applicable, a copy of the valuation report prepared in accordance with article 6(6) in relation to that scheme year.
- (5) The annual report prepared under this article shall be signed by two trustees on behalf of the trustees, or if there is only one trustee, by that trustee and where a statement is qualified in accordance with sub-article (4)(c), the trustees must state whether the matter is resolved.

**Disclosure of reports – audited accounts, valuation reports and annual reports.**

9. (1) (a) A copy of the latest accounts and reports prepared under articles 5, 7 or 8, shall be made available by the trustees of the relevant scheme not later than 9 months after the end of the scheme year to which it relates, or such later date as may be approved by the Board, in the manner specified in sub-article (2), to the relevant persons.
- (b) A copy of the latest valuation report prepared under article 6(2) shall be made available by the trustees of the relevant scheme not later than 9 months after the effective date, or such later date as may be approved by the Board, in the

manner specified in sub-article (3) to the relevant persons.

- (2) A copy of the latest reports and accounts prepared under articles 5, 7 and 8 shall be furnished free of charge –
  - (a) to an authorised trade union representing the members of the relevant scheme not later than 9 months after the end of the scheme year to which it relates or such later date as may be approved by the Board, and
  - (b) on request, to any of the other relevant persons not later than 4 weeks after the request is made.
- (3) A copy of the latest valuation report prepared in accordance with article 6(2) shall be –
  - (a) made available for inspection free of charge, on request, to any of the relevant persons, not later than 4 weeks after the request is made, and
  - (b) furnished on request and on payment of a reasonable charge to any of the relevant persons not later than 4 weeks after the request is made.
- (4) A copy of any earlier audited accounts, auditor's report on the accounts, valuation or annual reports, shall be -
  - (a) made available for inspection free of charge on request to any of the relevant persons not later than 4 weeks after the request is made, and
  - (b) furnished on request (not being a request made within 3 years of the last occasion on which a copy of the same audited accounts was furnished) and on payment of a reasonable charge (unless the trustees decide otherwise) to any of the relevant persons not later than 4 weeks after the request is made.

**Disclosure of Information in relation to schemes – constitution of the scheme.**

- 10.** (1) Subject to sub-article (4), the trustees of a scheme shall make available in the manner specified in sub-articles (2) and (3) below, to the relevant persons the following-
- (a) the contents of the trust deed where the scheme is constituted by such a deed,
  - (b) the contents of any document constituting the scheme where the scheme is not constituted by a trust deed,

- (c) the contents of the rules of the scheme,
  - (d) the contents of any document which amends or supplements or wholly or partly supersedes a document the contents of which fall to be furnished under paragraphs (a), (b) and (c) , and
  - (e) the name and address of the employer of any member employed in relevant employment.
- (2) A copy of any document specified in sub-article (1) or of the information referred to in paragraph (e) of that sub-article, shall be made available for inspection, free of charge, on request, but without limitation as to the number of requests in any twelve month period, to any of the relevant persons not later than 4 weeks after such request is made.
  - (3) A copy of any of the documents specified in sub-article (1) shall, on request, be furnished on payment of a reasonable charge to any of the relevant persons not later than 4 weeks after the request is made.
  - (4) Where different rules are applicable to different members and prospective members, nothing in this article shall be construed as requiring the trustees to furnish a document or part of a document, in relation to a member or prospective member, that is not relevant to his rights under the scheme.

**Disclosure of information in relation to schemes - basic information about the scheme.**

- 11. (1) Subject to sub-article (5), the trustees of a scheme shall furnish in writing the information specified in Schedule C to the persons specified in sub-articles (2) and (3).
- (2) The information specified in Schedule C shall be furnished to every person who becomes a member of a scheme within 2 months of his becoming a member.
- (3) The information specified in Schedule C shall, not later than 4 weeks after the request is made, be furnished on request to the relevant persons.
- (4) The trustees of the scheme shall notify the members of the scheme of any material alteration in the information specified in paragraphs 1 to 21 of Schedule C within 4 weeks of the date of making of any such alteration.
- (5) Where different rules are applicable to different members and prospective members of a scheme, nothing in this article shall be construed as requiring the trustees to disclose information in relation to a member or prospective member that is not relevant to his rights under the scheme.

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

12. (1) The trustees of a scheme shall furnish in writing the information specified in Schedules D to I to these Regulations, to the persons specified, and in the circumstances specified in articles 13 to 18.
- (2) The information to be furnished, by the trustees under articles 13 to 18 shall, except where otherwise specified in these Regulations, relate to a date specified for this purpose by the trustees, not being a date earlier than 12 months before the date on which such information is so furnished.
- (3) When any information specified in Schedules D to I is provided, it shall be accompanied by a written statement that further information about the scheme is available giving the name and address of the person to whom enquiries should be sent.
- (4) Where there is a right to request the method of calculation of any benefit, the information in respect of which is to be furnished under articles 13 to 18, such information shall be accompanied by a written statement that the calculation method is available upon request.
- (5) The trustees of a scheme shall furnish in writing the information specified in Schedules D to I to the same extent to or in respect of scheme members who move to another Member State as to or in respect of scheme members who remain within the State.
- (6) A Statement of Reasonable Projection – DC under Article 13 or 14 shall be prepared in accordance with the guidance note issued by the Society of Actuaries in Ireland in relation to the preparation of such statements.

**Information to be made available - member or prospective member in relevant employment.**

13. (1) Other than in the case of a scheme to which sub-article (7) applies, such information relating to a defined benefit scheme other than the DC Element of a defined benefit scheme as is specified in paragraphs 1 to 11 of Part I of Schedule D shall be furnished to any member of such a scheme whose service in relevant employment has not terminated before normal pensionable age, at least once in every scheme year commencing on or after 1 January 2007 and the information shall relate to a date specified for this purpose by the trustees, not being a date earlier than 3 months before the date upon which such information is so furnished.
- (2) Such information as is specified in paragraphs 14 to 26 of Part II of Schedule D shall be furnished to any member of a defined contribution scheme or any member of the DC Element of a defined benefit scheme, whose service in relevant employment has not terminated before normal pensionable age, at least once in every scheme year

commencing on or after 1 January 2007 and the information must relate to a date specified for this purpose by the trustees, not being a date earlier than 3 months before the date upon which such information is so furnished.

- (3) Such information as is specified in paragraphs 27 and 28 of Part III of Schedule D shall be furnished to any member of a scheme whose reckonable service in that scheme has been terminated before normal pensionable age, but whose service in relevant employment has not terminated. The information specified in paragraph 27 of Schedule D shall be furnished within 4 weeks of the termination of reckonable service and the information specified in paragraph 28 of Schedule D shall be furnished as soon as practicable, but in any event not later than 6 months after such termination of reckonable service.
- (4) Such information as is specified in paragraph 29 of Part III of Schedule D shall be furnished to a member of a scheme where a transfer of accrued rights has been received from another scheme of the same employer and where the member's reckonable service in that other scheme has terminated before normal pensionable age, but where service in relevant employment has not terminated. This information shall be furnished as soon as practicable, but in any event not later than 12 weeks after such transfer has been received.
- (5) The information specified in paragraph 5 of Part I, or paragraph 17 of Part II of Schedule D, as appropriate, shall be furnished by the trustees to any prospective member of the scheme on request as soon as practicable after the request is made, and in any event within 2 months of the request being made.
- (6) In addition to being furnished in accordance with sub-article (2), the Statement of Reasonable Projection – DC referred to in paragraph 25 of Part II of Schedule D, shall be furnished to every member of a defined contribution scheme and the DC Element of a defined benefit scheme-
  - (a) within 2 months of his becoming a member of a defined contribution scheme or the DC Element of a defined benefit scheme or a transfer being received in respect of him into a defined contribution scheme or the DC Element of a defined benefit scheme, and
  - (b) not later than 4 weeks after a request for the statement is made by a member or prospective member of a defined contribution scheme or the DC Element of a defined benefit scheme on payment of a reasonable charge (unless the trustees decide otherwise), and
  - (c) not later than 4 weeks after the date of a variation of scheme benefits as a result of which the trustees are required to notify a member of a material alteration in the information specified in Schedule C insofar as it relates to a defined contribution scheme or the DC Element of a defined benefit scheme.

- (7) Such information as is specified in either paragraph 12 or 13 of Part I of Schedule D shall, in the case of a defined benefit scheme established by a public authority, be furnished to every member who is not furnished with the information specified in sub-article (1) and whose service in relevant employment has not terminated before normal pensionable age, at least once in every scheme year commencing on or after 1 January 2007.
- (8) In this article “public authority” means -
- (a) a Minister of the Government,
  - (b) the Commissioners of Public Works in Ireland,
  - (c) a local authority for the purposes of the Local Government Act, 1941,
  - (d) the Health Service Executive established under the Health Act, 2004
  - (e) a health board established under the Health Act, 1970,
  - (f) the Eastern Regional Health Authority established under the Health (Eastern Regional Health Authority) Act, 1999,
  - (g) an Area Health Board established under the Health (Eastern Regional Health Authority) Act, 1999,
  - (h) a board or other body, but not a company, established by or under statute.

#### **Information to be made available - termination of relevant employment**

14. (1) The information specified in paragraph 1 of Part I of Schedule E shall be furnished to any member of a defined benefit scheme excluding the DC Element of a defined benefit scheme who has not acquired an entitlement to a preserved benefit as soon as practicable and in any event within 2 months after he or his employer has notified the trustees that his service in relevant employment has terminated or is about to terminate other than by reason of the winding up of the scheme.
- (2) The information specified in paragraphs 2 to 6 of Part I of Schedule E shall be furnished as appropriate -
- (a) to any member of a defined benefit scheme excluding the DC Element of a defined benefit scheme who has acquired an entitlement to preserved benefit as soon as practicable and in any event within 2 months after he or his employer has notified the trustees that his service in relevant employment has terminated or is about to terminate other than by reason of the winding up of the scheme,
  - (b) to any member of a defined benefit scheme excluding the DC Element of a defined benefit scheme whose service in relevant employment has terminated or is about to terminate other than by reason of the winding up of the scheme and who has not acquired an entitlement to a preserved benefit on request as soon as practicable and in any event within 2 months after the request is made, and

- (c) to any other member of a defined benefit scheme excluding the DC Element of a defined benefit scheme on request, as soon as practicable and in any event within 2 months after the request is made.
- (3) The information specified in paragraph 7 of Part II of Schedule E shall be furnished to any member of a defined contribution scheme or of the DC Element of a defined benefit scheme who has not acquired an entitlement to a preserved benefit as soon as practicable and in any event within 2 months after he or his employer has notified the trustees that his service in relevant employment has terminated or is about to terminate other than by reason of the winding up of the scheme.
  - (4) The information specified in paragraphs 8 to 13 of Part II of Schedule E shall be furnished as appropriate -
    - (a) to any member of a defined contribution scheme or of the DC Element of a defined benefit scheme who has acquired an entitlement to preserved benefit as soon as practicable and in any event within 2 months after he or his employer has notified the trustees that his service in relevant employment has terminated or is about to terminate, other than by reason of the winding up of the scheme,
    - (b) to any member of a defined contribution scheme or of the DC Element of a defined benefit scheme whose service in relevant employment has terminated or is about to terminate other than by reason of the winding up of the scheme and who has not acquired an entitlement to a preserved benefit on request as soon as practicable and in any event within 2 months after the request is made, and
    - (d) to any other member of a defined contribution scheme or the DC Element of a defined benefit scheme, on request, as soon as practicable and in any event within 2 months after the request is made.

**Information to be made available - retirement or death of a member or beneficiary.**

- 15. (1) Where, on or after the commencement of this article, a benefit under the scheme has become payable or is about to become payable to any of the persons specified in sub-article (3), the information specified in paragraphs 1, 3, 4 and 5 of Schedule F, together with the information specified in paragraph 2 of Schedule F in the case of a defined benefit scheme where the benefit is payable on death, shall be furnished to that person as soon as practicable and in any event within 2 months after the benefit becomes payable. In the case of a defined benefit scheme the information specified in paragraph 2 of Schedule F shall, where the benefit is payable otherwise than on death, be furnished on request as soon as practicable and in any event within 2 months after the request is made.
- (2) Where the amount of benefit payable under the scheme to a person specified in sub-article (3) is or is about to be altered otherwise than in accordance with paragraph 4 of Schedule F, a statement of the amount of the revised benefit shall be furnished to him as

soon as practicable and in any event within 2 months after the alteration is made including, in the case where such alteration represents an increase in benefit, a statement of the conditions (if any) subject to which the payment of that increase will continue.

- (3) The persons to whom this article relates are-
- (a) the members of the scheme,
  - (b) the spouses of members of the scheme, and
  - (c) persons within the application of the scheme and qualifying for its benefits.

**Information to be made available - scheme in wind up.**

16. (1) In this article “scheme in wind up” means a scheme in respect of which an act or event has occurred or a decision has been taken which, under the rules of the scheme, causes that scheme to wind up;

- (2) In the case of a scheme in wind up, the trustees shall-
- (a) as soon as possible, but in any event not later than 12 weeks after the act or event or decision requiring the scheme to wind up or the date on which the trustees first become aware or ought reasonably to have been aware that such an event has occurred, notify the Pensions Board and all persons specified in sub-article (5) of such an act, event or decision ;
  - (b) as soon as practicable after the resources of the scheme have been ascertained furnish each person specified in sub-article (5)(a), (b) and (c) with information relating to the rights and options (if any) available to him as regards his benefit entitlements in accordance with the rules of the scheme respecting a winding up;
  - (c) as soon as practicable after the resources of the scheme have been applied furnish each person specified in sub-article (5)(a) and (b)with -
    - (i) in the case of a defined benefit scheme other than the DC Element of the defined benefit scheme such information as is specified in paragraphs 1 to 6 of Part I of Schedule E relating to the rights secured for him,
    - (ii) in the case of a defined contribution scheme including the DC Element of a defined benefit scheme such information as is specified in paragraphs 7 to 12 of Part II of Schedule E relating to the rights secured for him,
    - (iii) an explanation as to the manner in which any surplus or deficit in the resources of the scheme has been dealt with, and

- (iv) information as to who will be liable to pay the benefits after the scheme is wound up and the address to which enquiries should be sent concerning a person's entitlements;
- (d) as soon as practicable after the resources of the scheme have been applied furnish each person specified in sub-article (5)(c) with -
  - (i) such information as is specified in Schedule F relating to the rights secured for him,
  - (ii) an explanation as to the manner in which any surplus or deficit in the resources of the scheme has been dealt with, and
  - (iii) information as to who will be liable to pay the benefits after the scheme is wound up and the address to which enquiries should be sent concerning a person's entitlements.
- (3) In the case of a small scheme in wind up -
  - (a) Part V of the Act is modified, as respects that scheme, in that, so long as the trustees of the scheme comply with the requirements of paragraph (b), sections 55 and 56 and articles 5 to 9 and 11 to 15 shall not apply.
  - (b) The trustees shall, as soon as possible but in any event not later than 3 months after the relevant date or, in the case of a small scheme that is already in wind up at the date this article comes into force, not later than 3 months after that date and thereafter in either case at intervals of 12 months or at such other intervals as the Board shall specify by written notice to the trustees of the scheme, produce to –
    - (i) the Board, and
    - (ii) on request, the persons specified in sub-article (5),a report containing the information specified in Schedule G.
- (4) For the purposes of this article if the trustees are not in possession of or cannot ascertain an address for the members or beneficiaries then they shall publish a notice in a national newspaper to the effect that the scheme is winding up detailing the name and address of the person to whom enquiries should be sent concerning entitlements under the scheme.
- (5) The persons to whom this article relates are -
  - (a) the members of the scheme being in relevant employment at the date of the decision or the occurrence of the event requiring the scheme to wind up,

- (b) the members of the scheme who have acquired an entitlement to a deferred benefit under the scheme at the date of the decision or the occurrence of the event requiring the scheme to wind up where such benefit had not come into payment at that date,
- (c) members who are in receipt of benefits under the scheme and other persons who are in receipt of or who are entitled to receive benefits under the scheme, and
- (d) any authorised trade union which represents those members.

**Information to be made available - Pension Adjustment Orders.**

17. (1) The information specified in paragraphs 1 to 4 of Schedule H shall be furnished to a non-member spouse or other person specified in a Pension Adjustment Order relating to a member as soon as practicable and in any event within 2 months of notification to the trustees of the granting of a Pension Adjustment Order in relation to the member's benefits.
- (2) The information specified in paragraphs 2, 5 and 6 of Schedule H shall be furnished to a non-member spouse on request, as soon as practicable and in any event within 2 months after the request is made.
- (3) The information specified in paragraphs 2, 3, 6 and 10 of Schedule H shall be furnished to a non-member spouse within 2 months after the member or his employer has notified the trustees that his relevant employment has terminated.
- (4) The information specified in paragraphs 2, 3, 6 and 11 of Schedule H shall be furnished to a non-member spouse as soon as practicable and in any event within 2 months of the member ceasing to be a member of the scheme other than by reason of death. Where the member's reckonable service has terminated and no transfer amount has been paid in accordance with subsections 5, 6, 7, 8 or 9 of Section 12 of the Family Law Act, 1995 and Section 17 of the Family Law (Divorce) Act, 1996, such information (other than that set out in paragraph 11 of Schedule H) shall be furnished within 2 months after the member or his employer has notified the trustees of such termination.
- (5) The information specified in paragraphs 2, 7 and 8 of Schedule H shall be furnished to a non-member spouse as soon as practicable and in any event within 2 months after the trustees apply the transfer amount in accordance with sub-sections 6 and 8 of Section 12 of the Family Law Act, 1995 and of Section 17 of the Family Law (Divorce) Act, 1996.
- (6) The information specified in paragraphs 2 and 9 of Schedule H shall be furnished on request to a non-member spouse (or other person specified in a Pension Adjustment Order affecting the member's benefits under the scheme) as soon as practicable and in any event within 2 months after the request is made.

**Information to be made available – investment alternatives and default investment strategy.**

**18.** The information specified under Schedule I shall be furnished on request to a member of a defined contribution scheme or the DC Element of a defined benefit scheme-

- (a) if the rules of the scheme provide for the trustees to invest all or part of the resources of the scheme in accordance with directions given by the members; or
- (b) if the rules of the scheme provide for such directions on condition that a determination of the sponsoring or participating employers and/or the trustees is made in favour of allowing the trustees to invite directions from members, and such a determination has been made

as soon as practicable after the request is received but in any event within 3 months of the date of the request.

**Service of information and documents.**

**19.** Any person (other than an authorised trade union) who is not employed in relevant employment shall (unless otherwise agreed with that person) be given, notified or furnished by ordinary post at the last address known to the trustees, any –

- (a) information or documentation which these Regulations require the trustees of a scheme to give, notify or furnish, or
- (b) request for information or for a document to be given, notified or furnished in pursuance of these Regulations.

## SCHEDULE A

### *Article 5.*

#### CONTENTS OF ACCOUNTS

1. Accounts of the scheme shall show a true and fair view of -
  - (a) the financial transactions of the scheme during the scheme year, and
  - (b) the assets and liabilities at the end of the scheme year.
  
2. (a) The information referred to at paragraph 1(b) need not include -
  - (i) insurance policies which have been purchased and which fully match the pension obligations of the scheme in respect of specific individual members or other persons in respect of such members or to both,
  - (ii) liabilities to pay benefits in the future, or
  - (iii) additional voluntary contributions, if any, under the scheme which are separately invested.
  - (b) Where additional voluntary contributions are separately invested in the form of a defined contribution scheme they should be disclosed separately from the information referred to in paragraph 1 but accounted for within the accounts of the scheme or the notes thereto.
  - (c) The notes thereto should, other than in the case of a scheme the resources of which are invested wholly in managed funds, include a statement of the distribution of the investments of the scheme detailing, where appropriate, particulars of any self-investment of the resources of the scheme at any time during the scheme year or concentration of investment in excess of 5 per cent of the resources of the scheme at the scheme year end.
  
3. A reconciliation of the information mentioned in paragraph 1(a) with the information mentioned in paragraph 1(b).

4. In respect of every amount shown in the accounts, a statement of the corresponding amount for the scheme year previous to the one to which the accounts relate, except in the case where article 5 is complied with by trustees of a scheme for the first time.
5. A statement whether the accounts have been prepared in accordance with the Statement of Recommended Practice-Financial Reports of Pension Schemes issued by the Pensions Research Accountants Group, as amended from time to time, current to the end of the scheme year to which the accounts relate and, where this is not the case, the particulars of any material departures from that Statement.

## **SCHEDULE B**

*Articles 7 and 8.*

### **THE ANNUAL REPORT - INFORMATION TO ACCOMPANY AUDITED ACCOUNTS AND ACTUARIAL FUNDING CERTIFICATE**

1. (a) The names of all persons who were trustees of the scheme during the scheme year to which the information relates, and those trustees acting at the date of signing of the annual report in accordance with sub-article (6) of article 7 or sub-article (5) of article 8, and the names of the directors of any company being a trustee during the scheme year to which the information relates or at the date of signing of the annual report as aforesaid.  
  
(b) If there is more than one employer participating in the scheme at the end of the scheme year to which the annual report relates, a list of such participating employers.
2. The name of each actuary, auditor, solicitor, bank, investment manager, custodian and administrator acting for or retained by the trustees during the scheme year and (where different) those retained at the date of signing of the annual report in accordance with sub-article (6) of article 7 or sub-article 5 of article 8 with an indication (except where article 7 or 8 is complied with by the trustees for the first time) of any change since the previous scheme year.
3. The name or title, and the address of the person to whom enquiries about the scheme generally or about an individual's entitlement to benefit should be sent.
4. Where any changes have been made since the previous scheme year in the information specified in Schedule C, a statement to that effect and that the members concerned have been notified in accordance with sub-article (4) of article 11.
5. (a) The following information must be provided as at any one date during the scheme year -
  - (i) the number of members in reckonable service,
  - (ii) the number of persons in receipt of benefits under the rules of the scheme,
  - (iii) the number of members whose relevant employment has ceased but who remain entitled to benefits under the rules of the scheme, and
  - (iv) the number of members in relevant employment where the only benefit under the scheme in respect of such members is in respect of death prior to normal pensionable age.

(b) The number of members or other persons referred to in sub-paragraphs (a)(ii) and (iii) need not include any member or person in respect of whom an insurance policy has been purchased and such policy has been excluded from the annual accounts in accordance with paragraph 2(a)(i) of Schedule A.

(c) Any material changes in the information provided in the previous scheme year under sub-paragraphs (a)(i), (ii) and (iii) should be accompanied by an explanatory note.

6. A statement of –

(c) whether or not increases were made during the scheme year to –

(i) pensions in the course of payment, and

(ii) benefits payable following termination of a member's service in relevant employment,

and by what percentage, or (except in the case of a scheme that is not funded) if there have been different increases for different individuals or groups of individuals, the average percentage increase of such increases or the range of increases within these groups with in either case a statement whether the increases were to any extent discretionary, and if so to what extent and exercised by whom; and

(d) if there were any pensions or pension increases being paid by or at the request of the trustees for which the scheme would not have a liability in the event of its winding up and whether the persons concerned have been notified in writing by or at the request of the trustees.

7. A review by the trustees of the financial development of the scheme during the scheme year, as shown by the audited accounts, and a statement explaining the latest actuarial funding certificate and funding proposal (if any) submitted to the Pensions Board.

8. The name of each person or organisation concerned in the management of the investments of the scheme during the year and the extent of any delegation of this function by the trustees.

9. Whether or not the scheme is bearing the costs of any investment manager and, if so, the basis on which such investment manager is paid.

10. An investment report containing -
  - (a) a statement by the trustees, or the investment manager, of the investment policies pursued during the scheme year on behalf of the scheme, and any material changes in these policies during the scheme year,
  - (b) a review of the investment performance of the scheme's fund during the scheme year and the nature, disposition, marketability, security and valuation of the scheme's resources, and
  - (c) the latest statement of investment policy principles.
11. A statement that the right of members to select or approve the selection of trustees to the scheme is set out in the Occupational Pension Schemes (Member Participation in the Selection of Persons for Appointment as Trustees (No.3)) Regulations, 1996, (S.I. No.376 of 1996) where a scheme is a relevant scheme as defined in the said regulations.
12. A statement as to whether -
  - (a) the trustees have access to appropriate training on their duties and responsibilities as trustees, and
  - (b) any costs and expenses were incurred in relation to such trustee training in the scheme year which have been met out of the resources of the scheme.
13. Where the accounts of the scheme for the scheme year concerned refer to a significant post year end item, a statement by the trustees in relation to that item.
14. A statement that the scheme has been registered with the Pensions Board and the registration number.
15. A statement as to whether the trustees and (if applicable) the persons charged with the administration of the scheme have access to -
  - (a) the Trustee Handbook produced by the Pensions Board, and
  - (b) the Guidance Notes issued by the Pensions Board from time to time in accordance with section 10 of the Act.
16. A statement by the trustees that they have appropriate procedures in place to ensure that -
  - (a) contributions payable during the scheme year have been received by the trustees either in accordance with section 58A of the Act where applicable to the contributions and otherwise within 30 days of the end of the scheme year, and
  - (b) contributions payable have been paid in accordance with the rules of the relevant scheme and if appropriate, with the recommendation of the actuary.

17. Unless already disclosed with the information provided under article 11, a statement concerning the condition of the pension scheme, in particular concerning the financial, technical and other risks associated with the scheme and the nature and distribution of those risks.
18. Unless already disclosed, a statement explaining the procedures in place to comply with the requirements of article 5 of the Pensions Ombudsman Regulations, 2003(S.I. No. 397 of 2003) with regard to the internal resolution of disputes.
19. A statement to the effect that the relevant scheme has not been audited by an auditor.
20. A statement of material transactions which have occurred at any time during the scheme year with related parties (within the meaning of Financial Reporting Standard 8, “Related Party Disclosures”), irrespective of whether a price was charged.
21. A copy of the latest actuarial funding certificate (if any) prepared under section 42 of the Act.
22. An investment report containing a statement by each individual investment manager acting for the relevant scheme providing-
  - (a) a summary of the investments managed by him and, other than in relation to resources invested in policies of insurance, their value at the end of a scheme year,
  - (b) the investment policies pursued during the scheme year on behalf of the relevant scheme and any material changes in these policies during the scheme year,
  - (c) a review of the performance of the relevant scheme’s funds managed by him during the scheme year, and
23. A statement as to whether the relevant scheme is a defined benefit scheme or a defined contribution scheme for the purposes of the Act.

## SCHEDULE C

### *Article 11.*

#### **BASIC INFORMATION ABOUT THE SCHEME**

1. The categories of persons who are eligible to be members of the scheme.
2. Whether or not membership of the scheme is a condition of employment and the categories of persons (if any) to whom such a condition applies.
3. The conditions of membership.
4. How members' contributions are calculated.
5. How employers' contributions are calculated.
6. Whether the scheme is approved under Chapter II of Part I of the Finance Act, 1972 or Chapter 1 of Part 30 of the Taxes Consolidation Act, 1997, and, if not, whether an application for such approval of the scheme is under consideration by the Revenue Commissioners.
7. Whether the scheme is a defined benefit or defined contribution scheme for the purposes of the Pensions Act 1990.
8. What benefits, if any, are payable under the scheme, and how they are calculated.
9. The conditions on which benefits are paid and any options relating thereto.
10. Which benefits, if any, are payable only at some person's discretion.
11. Which of the benefits are, and which are not, funded.
12. Which of the benefits, if any, are such that fulfillment of the obligation to pay them to or in respect of particular members is guaranteed by means of one or more insurance policies which are specifically allocated to the provision of benefits payable to or in respect of those members. Where the payment of the benefit under any life assurance policy is subject to the satisfaction of any underwriting criteria, this should be stated.
13. The short title of the Act or Acts of the Oireachtas (if any) which provides for both -
  - (a) the setting up of the scheme, and
  - (b) the determination of the rate or amount of the benefits under the scheme.

14. If the employer of any person who is entitled to benefits under the scheme has entered into an obligation to pay the benefits if the scheme's resources are insufficient to do so, the extent of that obligation.
15. Other than in the case of a defined contribution scheme, if there is discretionary power under the scheme rules to increase pensions after they become payable, a statement that, where discretionary increases to pensions already in payment have been granted, details of who exercised this discretionary power and information about the increase given will be set out in the annual report.
16. The name or title and address of the person to whom enquiries about the scheme generally or about an individual's entitlement to benefit should be sent.
17. Whether there is power to amend the scheme terms detailing who may amend the scheme and whether there are any significant conditions on the exercise of that power.
18. The arrangements (if any) which are made for the payment by members of additional voluntary contributions.
19. A statement that the scheme has been registered with the Pensions Board and the registration number.
20. A statement, that in the event of judicial separation or divorce, a Court application for a Pension Adjustment Order in respect of the retirement or contingent benefits payable to or in respect of a married member may be made noting that further information about the operation and impact of Pension Adjustment Orders may be obtained from the Pensions Board.
21. If the scheme provides an integrated pension (within the meaning of section 59C of the Act) the inclusion of a statement describing integration in the form set out below or in such other form as the trustees deem appropriate:

“This scheme is an integrated scheme meaning it is one that takes account of Old Age (Contributory) Pension (or other similar contributory benefits payable under social insurance) in designing the overall pension package. An integrated scheme looks at the Old Age (Contributory) Pension as part of the total pension package. Both employers and employees make pay-related social insurance (PRSI) contributions and these in turn entitle scheme members to Social Welfare benefits.

Integration is used as a means of taking into account the benefits payable under the Social Welfare system to calculate –

- The amount of occupational pension required so that the combined pension from both sources is at the level being aimed for in designing the scheme;
- The level of contributions payable by the employee towards the cost of his or her occupational pension.”.

## SCHEDULE D

### *Article 13*

#### **INFORMATION TO BE MADE AVAILABLE TO A MEMBER OR PROSPECTIVE MEMBER IN RELEVANT EMPLOYMENT**

##### **PART I – DEFINED BENEFIT SCHEME**

1. (a) The amount of the member's own benefits and of his survivor's benefits which would be payable under the rules of the scheme from normal pensionable age or death thereafter if his service in relevant employment were to terminate on his attaining normal pensionable age, calculated without regard to possible increases in his salary and, as the trustees may decide, with or without regard to pensionable allowances or other emoluments which may not feature in pensionable remuneration at normal pensionable age.
- (b) The method by which the amount specified in sub-paragraph (a) has been calculated.
- (c) In the case of any member of a defined benefit scheme who has service in relevant employment after 1 January 2007, the amount of the member's own benefits and of his survivor's benefits which would be payable under the rules of the scheme from normal pensionable age, or the age at which preserved pension becomes payable under the scheme, if his service in relevant employment were to terminate immediately or on a stated date within the 12 months preceding the date of the statement, and without regard to possible revaluation of benefits after termination of service under section 33 of the Act or otherwise and, as the trustees may decide, with or without regard to pensionable allowances or other emoluments.
- (d) The method by which the amount specified in sub-paragraph (c) has been calculated.
- (e) Where additional benefits have been secured or granted under the scheme on a defined benefit basis by way of any or all of additional voluntary contributions or a transfer of rights from another scheme or PRSA or a transfer amount in lieu of a designated benefit under a Pension Adjustment Order, the amount of such benefits should be included either in the amounts specified in sub-paragraphs (a) and (c) (with a statement to this effect) or shown separately.
- (f) If the scheme provides an integrated pension (within the meaning of section 59C of the Act) the inclusion of a statement that the scheme takes account of the social welfare pension.

- (g) A statement that if the social welfare pension is payable in addition to the occupational pension, that qualification for the social welfare pension is subject to tests administered by the Department of Social and Family Affairs, and the address and telephone phone number of the information service of the Department of Social and Family Affairs.
2. The member's date of entry into current membership of the scheme and the normal pensionable age in accordance with the rules of the scheme. The amount of contributions (including additional voluntary contributions) paid by the member to the scheme, unless it is a scheme excluded from the provisions of Part IV of the Act, and the amount of any transfer payment received on behalf of the member from another scheme or from a PRSA which are treated on a defined benefit basis.
  3. The amount of the member's current pensionable salary and the method by which it is derived.
  4. The amount of any benefit or benefits payable in respect of the death of the member prior to normal pensionable age without regard to possible increases in his salary and, as the trustees may decide, with or without regard to pensionable allowances or emoluments.
  5. Whether the member or prospective member has an option to purchase additional benefits on a defined benefit basis under the scheme by way of additional voluntary contributions or to acquire rights to additional benefits on a defined benefit basis in exchange for any transfer payment provided by another scheme or PRSA and if so,
    - (a) the amount of these additional benefits or an explanation of how they will be calculated, and
    - (b) a statement of how the option may be exercised.
  6. If a Pension Adjustment Order has been received in respect of the member's benefits under the scheme this must be stated and, if so, either a statement of the effect of the Pension Adjustment Order or details as to where further information relating to the effect and operation of the Pension Adjustment Order on the benefits to or in respect of the member may be obtained.
  7. The member's name, date of birth, known marital status and gender.
  8. Name of trustees to the scheme at the date specified .
  9. A statement that the method of calculation of contributions payable in respect of the member is set out in the scheme rules and in the letter or booklet containing basic information about the scheme which the trustees are required to make available or furnish to the member on request and the name and address of the person from whom the rules or letter or booklet are available.

10. A statement that the member should contact in the first instance the person specified in article 12(3), and then, if necessary, the trustees and the employer and then, if necessary, the Pensions Board, if he is concerned that contributions payable in respect of him during the scheme year have not been paid in accordance with the rules of the relevant defined benefit scheme.
11. A statement that the information is issued on behalf of the trustees and that the trustees are required under the provisions of section 59(1)(a) of the Act to ensure, insofar as is reasonable, that the contributions payable by the employer and the members of the scheme, where appropriate, are received.
12. A notification that the information specified in paragraph 13 is available to that person in electronic format and details of how the information can be accessed.
13.
  - (a) A description of the benefits available under the scheme and how they are calculated, including preserved benefits and a statement that benefits may be adjusted due to Pension Adjustment Orders,
  - (b) whether the scheme provides a pension integrated with the social welfare pension and, if so, a statement that the scheme takes account of the social welfare pension,
  - (c) a statement that qualification for the social welfare pension is subject to tests administered by the Department of Social and Family Affairs and the address and telephone number of the information service of the Department of Social and Family Affairs,
  - (d) whether additional benefits can be secured, purchased or granted under the scheme by way of any or all of –
    - (i) notional service;
    - (ii) additional voluntary contribution; or
    - (iii) transfer of rights from another scheme or PRSA,
  - (e) worked examples of the main benefits based on a range of salary bands (or on a range of rates applicable in the scheme) and a range of pensionable service bands,
  - (f) names of trustees of the scheme at the date specified, and
  - (g) relevant pay scales applicable at the date of the statement.

**PART II – DEFINED CONTRIBUTION SCHEME  
DC ELEMENT OF A DEFINED BENEFIT SCHEME**

14. (a) The member's date of entry into current membership of the scheme and the normal pensionable age in accordance with the rules of the scheme, and
- (b) The amount of contributions (including additional voluntary contributions) paid by the member of the scheme and the amount of any transfer payment received on behalf of the member from another scheme or PRSA.
15. (a) (i) The accumulated value as at a specified date in the case of a defined contribution scheme or the DC Element of a defined benefit scheme, of the contributions (including additional voluntary contributions) and transfers in respect of accrued rights (including transfer payments and transfer amounts) paid, credited or received on behalf of the member by the scheme to provide benefits payable at or from normal pensionable age or death thereafter. This value must be expressed on the assumption, which must be stated, that the member remains in reckonable service to normal pensionable age and it must not include any estimate of bonus, interest or other additions after the specified date other than those which are explicitly guaranteed under the policy of assurance or other contract to which the contributions have been applied; and
- (ii) a statement of whether or not this value is guaranteed and, if not guaranteed, that the amount available at normal pensionable age could be higher or lower than the value stated.
- (b) (i) If different by reference to the accumulated value in paragraph 15(a), the amount of money that would be available as at the specified date in respect of the member for transfer out of the scheme on the assumption, which must be stated, that the member's service in relevant employment terminated as at the specified date; and
- (ii) A statement of whether or not this value is guaranteed and, if not guaranteed, that the amount available in respect of the member for transfer out of the scheme at any date after the specified date, if the member's service in relevant employment terminated, could be higher or lower than the value stated.
- (c) If the scheme provides an integrated pension (within the meaning of section 59C of the Act) the inclusion of a statement that the scheme takes account of the social welfare pension.

- (d) A statement that the social welfare pension is payable in addition to the occupational pension, that qualification for the Social Welfare pension is subject to tests administered by the Department of Social and Family Affairs and the address and telephone phone number of the information service of the Department of Social and Family Affairs.
16. The amount of benefit or benefits payable under a defined contribution scheme or under the DC Element of a defined benefit scheme in respect of the death of the member prior to normal pensionable age without regard to possible increases in his salary, or (if relevant) any change in the accumulated value of the contributions after a specified date.
  17. In the case of a defined contribution scheme or the DC Element of a defined benefit scheme whether the member or prospective member has an option to purchase additional benefits under the scheme by way of additional voluntary contributions or to acquire rights to additional benefits in exchange for any transfer payment provided by another scheme and, if so-
    - (a) the amount of these additional benefits or an explanation of how they will be calculated, and
    - (b) a statement of how the option may be exercised.
  18. The member's name, date of birth, known marital status and gender.
  19. Name of trustees to the scheme at the date specified.
  20. If a Pension Adjustment Order has been received in respect of the member's benefits under a defined contribution scheme or the DC Element of a defined benefit scheme this must be stated and, if so, either a statement of the effect of the Pension Adjustment Order or details as to where further information relating to the effect and operation of the Pension Adjustment Order on the benefits to or in respect of the member may be obtained.
  21. A statement specifying in the case of a defined contribution scheme or the DC Element of a defined benefit scheme-
    - (a) each contribution (including additional voluntary contributions) paid or credited by or on behalf of the member to the scheme between the current and previous dates specified,
    - (b) the amount of any transfer in respect of accrued rights (including transfer payments and transfer amounts) received or made by the scheme on behalf of the member between the current and previous dates specified ,

- (c) the aggregate net amounts under sub-paragraphs (a) and (b) invested by the trustees in the scheme on behalf of the member between the current and previous dates specified, and
  - (d) a statement explaining the difference between the amount under sub-paragraph (c) and the aggregate gross amounts under sub-paragraphs (a) and (b).
- 22. A statement that the method of calculation of contributions payable in respect of the member is set out in the scheme rules and in the letter or booklet containing basic information about the scheme which the trustees are required to make available/furnish to the member on request under articles 10 and 11 and the name and address of the person from whom the rules, letter or booklet are available.
- 23. A statement that the member should contact in the first instance the person specified in article 12(3), and then, if necessary, the trustees and the employer and then, if necessary, the Pensions Board, if he is concerned that contributions payable in respect of him during the scheme year have not been paid in accordance with the rules of the relevant defined contribution scheme or the DC Element of a defined benefit scheme.
- 24. A statement that the information, specified in paragraph 21, is issued on behalf of the trustees and that the trustees are required under the provisions of section 59(1)(a) of the Act to ensure, insofar as is reasonable, that the contributions payable by the employer and the members of the scheme, where appropriate, are received.
- 25. A Statement of Reasonable Projection – DC, which-
  - (a) specifies the level of benefits which could reasonably be expected at a specified date or dates to be payable under the scheme based, in the case of a defined contribution scheme or the DC Element of a defined benefit scheme, on the contributions paid and/or credited, by or on behalf of the member to the scheme, at the date of the statement and based on any transfer in respect of accrued rights (including transfer payments and transfer amounts) received by the scheme on behalf of the member at the date of the statement;
  - (b) specifies the level of benefits which could reasonably be expected at a specified date or dates to be payable under the scheme based, in the case of a defined contribution scheme or the DC Element of a defined benefit scheme, on the contributions and transfers paid, credited or received and those contributions proposed to be paid or credited, by or on behalf of the member to the scheme, at the date of the statement;

- (c) includes a statement of the material assumptions (including, as may be relevant, assumptions as to investment return, future contributions, date of termination of reckonable service and date of retirement on which the levels of benefits mentioned in sub-paragraphs (a) and (b) have been calculated but disregarding the effects of inflation; and
- (d) a statement advising the member of the importance of making adequate financial provision for retirement.

Provided that if the statement is being produced under Article 13(2) to a member within 2 months of his becoming a member, it shall specify only the level of benefits which could reasonably be expected at a specified date or dates to be payable under the scheme based on the contributions proposed to be paid and/or credited by or on behalf of the member to the scheme at the date of the statement and the assumptions previously stated.

- 26. The amount of contributions (including additional voluntary contributions) paid by or on behalf of the member to the scheme before the 1st day of January 1991 and the amount of any transfer payment received on behalf of the member from another scheme prior to that date shall, where it is available to the trustees, be furnished to any member of a defined contribution scheme or the DC Element of a defined benefit scheme, whose service in relevant employment has not terminated before normal pensionable age on request as soon as practicable after the request is made, and in any event within 2 months of the request being made.

### **PART III – TERMINATION OF RECKONABLE SERVICE WITHOUT TERMINATION OF RELEVANT EMPLOYMENT – ALL SCHEMES**

- 27. The fact that the member's reckonable service in the scheme has terminated and the date upon which it so terminated.
- 28. (a) Whether a part of the resources of the scheme has been or will be applied in respect of the member in the making of a payment to another scheme of the same employer or a policy or contract of assurance within the meaning of section 34(3)(b) of the Act, including the effective date of any such application and the name, address or title of the person to whom enquiries about the other scheme or policy or contract of assurance should be sent, and
  - (b) If any actual or potential benefits in respect of the member remains in the scheme after a period of six months has elapsed from the date of termination of reckonable service, the information specified in Part I or Part II of Schedule D, as appropriate, as if the member had requested such information.
- 29. How the transfer of accrued rights from the other scheme will be treated in connection with the provision of long service benefit or additional long service benefit under the scheme.

## SCHEDULE E

*Article 14.*

### INFORMATION TO BE MADE AVAILABLE – TERMINATION OF RELEVANT EMPLOYMENT

#### PART I – DEFINED BENEFIT SCHEME (EXCLUDING THE DC ELEMENT OF A DEFINED BENEFIT SCHEME)

1. An explanation of any rights and options available to a member whose service in relevant employment terminates before he has acquired an entitlement to a preserved benefit including-
  - (a) details of whether a refund of contributions is available or would be available in any circumstances, and in the latter case a statement of the circumstances and, in either case, an estimate of the amount of the refund and an explanation of the method of calculating it, and
  - (b) the name or title and address of the person from whom details of any other rights and options may be obtained on request.
  
2. The rights and options (if any) available to a member whose service in relevant employment terminates before he attains normal pensionable age, including details of-
  - (a) the amount of preserved benefit payable under the rules of the scheme to or in respect of a member, and the method by which such amount has been calculated;
  - (b) the amount of benefits (if any) payable under the rules of the scheme to or in respect of a member in addition to those specified in sub-paragraph (a), and, for a member whose relevant employment terminated after 1<sup>st</sup> day of January 1991, the method by which such amount has been calculated;
  - (c) the date or dates on which such benefits become payable;
  - (d) whether there is an option to have alternative benefits payable immediately and the relevant details of such alternative benefits;
  - (e) the provisions (or, as the case may be, a statement that there are no provisions) under which benefits may or will be increased, and the extent to which such increases are dependent on the exercise of a discretion;
  - (f) whether a refund of contributions is available, or would be available in any

circumstances, and in the latter case, a statement of the circumstances, and in either case, an estimate of the amount of the refund and an explanation of the method of calculating it;

- (g) the name and address of the scheme, its trustees and those responsible for the payment of the member's benefits.
3. Whether any amount of money is available in respect of the member for transfer out of the scheme and, if so –
    - (a) an estimate of the amount available, calculated on the basis that the member's service in relevant employment terminated or will terminate on one particular date;
    - (b) the accrued rights to which that amount relates, and
    - (c) if the amount available reflects a reduction made in accordance with the proviso to section 34(2) of the Act, this must be stated together with the amount of the reduction.
  4. The procedures for claiming the member's benefits payable in the event of the termination of his service in relevant employment prior to normal pensionable age.
  5. If any transfer payment has been effected or any amount has been paid in respect of the benefits specified in sub-paragraph (b) of paragraph 2 by the trustees of the scheme without the consent of the member the name and address of the scheme to which the transfer payment or any amount has been paid or of the undertaking with whom the policy or contract of assurance has been entered into on behalf of the member.
  6. If a Pension Adjustment Order has been received in respect of the member's benefits under the scheme this must be stated and, if so, either a statement of the effect of the Pension Adjustment Order or details as to where further information relating to the effect and operation of the Pension Adjustment Order on the benefits to or in respect of the member may be obtained.

**PART II – DEFINED CONTRIBUTION SCHEME  
DC ELEMENT OF A DEFINED BENEFIT SCHEME**

7. An explanation of any rights and options available to a member whose service in relevant employment terminates before he has acquired an entitlement to a preserved benefit including details of -
  - (a) whether a refund of contributions is available or would be available in any circumstances, and in the latter case a statement of the circumstances and, in either case, an estimate of the amount of the refund and an explanation of the

method of calculating it, and

- (b) the name and address of the person from whom details of any other rights and options may be obtained on request.
8. The rights and options (if any) available to a member whose service in relevant employment terminates before he attains normal pensionable age, including details of-
- (a) the accumulated value as at a specified date of the appropriate contributions payable under the rules of the scheme to or in respect of a member,
  - (b) the accumulated value as at the same date of any other contributions to which the member is entitled,
  - (c) the date or dates on which such amounts become payable and a brief explanation of how the amounts would be applied,
  - (d) whether there is an option to have benefits payable immediately and the relevant details of such benefits,
  - (e) whether a refund of contributions is available, or would be available in any circumstances, and in the latter case a statement of the circumstances, and in either case, an estimate of the amount of the refund and an explanation of the method of calculating it, and
  - (f) the name and address of the scheme, its trustees and those responsible for the payment of the member's benefits.
9. Whether any amount of money is available in respect of the member for transfer out of the scheme and, if so -
- (a) an estimate of its amount calculated on the basis that the member's service in relevant employment terminated or will terminate on one particular date; and
  - (b) the accrued rights to which it relates.
10. The procedures for claiming the member's benefits payable in the event of the termination of his service in relevant employment prior to normal pensionable age.
11. If any transfer payment has been effected or any amount has been paid in respect of the benefits specified in sub-paragraph (b) of paragraph 8 by the trustees of the scheme without the consent of the member, the name and address of the scheme to which the transfer payment or any amount has been paid or of the undertaking with whom the policy or contract of assurance has been entered into on behalf of the member.

12. Whether a Pension Adjustment Order has been issued in respect of the member's benefit under the scheme and if so either a statement of the effect of the Pension Adjustment Order or details as to where further information relating to the effect and operation of the Pension Adjustment Order on the benefits to or in respect of the member may be obtained.
13. A Statement of Reasonable Projection – DC which specifies the level of benefits which could reasonably be expected at a date specified in the projection to be payable under the scheme based, in the case of a defined contribution scheme or the DC Element of a defined benefit scheme on the contributions paid and/or credited and the additional voluntary contributions paid and/or credited, by or on behalf of the member to the scheme, at the date of the statement and on any transfer in respect of accrued rights (including transfer payments and transfer amounts) received by the scheme on behalf of the member at the date of the statement. This level of benefits must be expressed on assumptions, which must be stated, as to investment return and the benefits not becoming payable before the date specified in the projection.

## **SCHEDULE F**

### *Article 15.*

#### **INFORMATION TO BE MADE AVAILABLE - RETIREMENT OR DEATH OF MEMBER OR BENEFICIARY**

1. The amount of benefit which is payable to or in respect of the person and any options relating thereto and the procedure for exercising them.
2. The method by which the amount specified in paragraph (1) has been calculated.
3. If the amount of benefit is payable periodically the conditions (if any) subject to which the payment will continue.
4. If a benefit is payable periodically the provisions (if any) under the rules of the scheme whereby the amount payable will be altered.
5. An explanation of the option available to members to take a level pension with no subsequent increases or a lower initial pension which would increase each year during payment.

## SCHEDULE G

### *Article 16*

#### **INFORMATION TO BE CONTAINED IN REPORT TO THE PENSIONS BOARD – SCHEMES IN WIND-UP**

The report to which article 16(3) refers shall contain the following information -

1. The date of the winding-up event.
2. An estimate of the realisable value of the assets of the scheme as at a stated date, not being earlier than the date the winding up commenced, in the case of the first such report, and not being earlier than three months before the date of the report, in any other case.
3. An estimate of the cost of discharging the liabilities of the scheme as at the stated date.
4. A statement of the trustees' realisations and disbursements in respect of the scheme during the period from the commencement of the winding-up to the stated date, including –
  - (a) a record of aggregate receipts (or if subsequently requested by the Board, a breakdown of receipts) deriving from income earned by the scheme and from the realisation of assets,
  - (b) a record of aggregate payments (or if subsequently requested by the Board, a breakdown of payments) for and costs and charges,
  - (c) all payments to or for the benefit of members and other beneficiaries of the scheme,
  - (d) all payments to or for the benefit of the employers of the members, and
  - (e) any remuneration payable to the trustees.
5. A summary report as to the progress of the dissolution of the scheme, including –
  - (a) a statement of whether any observations have been made or will be invited under section 59D, and
  - (b) an estimate of the time necessary to complete dissolution;
6. Such other information as the Board may require from time to time by written notice to the trustees of the scheme.

## SCHEDULE H

### *Article 17.*

#### **INFORMATION TO BE MADE AVAILABLE - PENSION ADJUSTMENT ORDERS**

1. A statement with the details both as to the amount of and the nature of the benefit to be provided under the Pension Adjustment Order.
2. A note that further information may be obtained from the Pensions Board.
3. The name or title, and the address of the person to whom enquiries should be sent.
4. A statement that the non-member spouse or person specified in the Pension Adjustment Order is advised to notify the trustees of any change of address.
5. An estimate of the transfer amount which may be applied by the non-member spouse. If the amount available reflects a reduction made in accordance with the proviso to section 34(2) of the Act, this must be stated together with the amount of the reduction.
6. A statement of the options available to the non-member spouse.
7. The date of the application of the transfer amount.
8. The name and address of the scheme to which the transfer amount has been applied or of the undertaking with whom the policy or contract of assurance has been entered into on behalf of the non-member spouse.
9. An estimate of the contingent benefit payable under the Pension Adjustment Order.
10. A statement that any contingent benefit awarded under a Pension Adjustment Order ceases to have effect
11. A statement that the member spouse has ceased to be a member of the scheme.

## SCHEDULE I

### *Article 18*

#### **INFORMATION IN RELATION TO INVESTMENT ALTERNATIVES FOR SCHEMES WHICH PROVIDE FOR MEMBERS' DIRECTIONS ON INVESTMENT**

1. A description of the different types of investments which could be made at the direction of the member (the "investment alternatives").
2. A statement as to which one or more of the investment alternatives will be the default investment strategy which the trustees shall implement in respect of a member unless the member directs the trustees in writing to invest in one or more of the investment alternatives as selected by the trustees. The statement may include a provision that where more than one investment alternative is included by the trustees in the statement under this paragraph, the trustees may decide at the date of investment in which one or more of the investment alternatives, and in what proportions, the trustees will invest.
3. The identity of the investment manager or managers.
4. With respect to each investment alternative, a general description by the trustees of or information received by the trustees in respect of-
  - (a) its investment objectives,
  - (b) its risk and return characteristics, and
  - (c) the type and diversification of assets comprising the portfolio of the investment alternative.
5. With regard to members' directions-
  - (a) an explanation of when members may give or vary directions;
  - (b) an explanation of any specified limitations on such directions under the terms of the scheme, the investment alternative or otherwise;
  - (c) information on any restrictions on transfer to or from an investment alternative.
6. A description of the charges levied on each investment alternative which reduce contributions on their investment and/or the rate of return to members.
7. The name or title and address of the person or persons to whom enquiries about the investment alternatives should be sent.

8. If the scheme rules include a provision that the trustees are not liable for poor investment returns as a result of investments made by the trustees or made by the trustees as a result of directions from a member, a statement to that effect.
9. Information on the investment portfolio, risk exposures and the costs related to investments.

GIVEN under the Official Seal of the Minister for Social and Family Affairs, this 24<sup>th</sup> day of May 2006.

**L.S.** **SÉAMUS BRENNAN**

**Minister for Social and Family Affairs**

The Minister for Finance hereby consents to the making of the foregoing Regulations.

GIVEN under the Official Seal of the Minister for Finance, this 31<sup>ST</sup> day of May 2006

**L.S.** **BRIAN COWEN**

**Minister for Finance.**

## EXPLANATORY NOTE

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

These Regulations revoke and replace Regulation 633 of 2005.

Recent case law in Ireland has suggested that a provision of domestic legislation cannot be used for the purposes of implementing EC law unless it is clear that such delegated legislation is clearly authorised by the primary legislation.

To this end, section 5 of the Pensions Act 1990 was amended by section 44 of the Social Welfare Law Reform and Pensions Act, 2006 to expressly state that regulations made under the Pensions Act may be used to implement law.

As these Regulations implement some aspects of Directive 2003/41 on the activities and supervision of occupational pensions, they are now being re made under the appropriate Pensions Act powers including the amended section 5.

There are some minor changes to the Regulations as promulgated in 2005 and these are

- insertion of sub-article 12(6) to provided that the Statement of Reasonable Projection should be calculated in accordance with the guidance issued by the Society of Actuaries.
- removal of the requirement in paragraph 22(d) of Schedule B, that the investment report contain the latest statement of investment policy principles.
- amendment of article 7(5)(f) to provide that the annual report shall contain a statement as to whether the relevant scheme is a defined contribution or a defined benefit scheme. This is similar to the requirement in relation to the alternative annual report.
- Inclusion of a “PRSA” in Schedule D in relation to transfer payments received from another scheme.
- Textual amendment to paragraph 6 of Schedule to provide that on leaving employment, a scheme member’s statement would not refer to a pension adjustment order unless one had already issued.