

Statutory Document No. 2001/0646



*Retirement Benefits Schemes Act 2000*

## **RETIREMENT BENEFITS SCHEMES (EXCEPTED SCHEMES) REGULATIONS 2001<sup>1</sup>**

*Approved by Tynwald:*

*11 December 2001*

*Coming into Operation:*

*1 January 2002*

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In exercise of the powers conferred on the Treasury by section 51 and 53 of the Retirement Benefits Scheme Act 2000<sup>1</sup>, and of all other enabling powers, and having consulted the Insurance and Pensions Authority and such other organisations and persons as appear to it to be likely to be affected, the following Regulations, are hereby made:—

### **1 Citation and commencement**

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

### **2 Interpretation<sup>2</sup>**

(1) In these Regulations —

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

“**the 1986 Act**” [Revoked]<sup>3</sup>

“**the 2008 Act**” means the Insurance Act 2008;<sup>4</sup>

“**Exempt insurance company contract**” [Revoked]<sup>5</sup>

“**exempted insurance company contract**” means any contract (within the meaning of the 2008 Act) which —

- (a) is provided by a company authorised under section 8 of the 2008 Act; and
- (b) is not a contract which is, or forms part of, an arrangement which is or was formerly registered as an authorised scheme under section 3 of the Act;<sup>6</sup>

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<sup>1</sup> 2000 c.14

“international retirement benefits scheme” has the same meaning as in regulation 2 of the Retirement Benefits Schemes (International Schemes) Regulations 2001;<sup>7</sup>

“Pensions Act (GB) 2008” means the Pensions Act 20083 (of Parliament) as it is in operation in Great Britain from time to time;<sup>8</sup>

“Pensions (No. 2) Act (NI) 2008” means the Pensions (No. 2) Act (Northern Ireland) 20084 (an Act of the Northern Ireland Assembly) as it is in operation in Northern Ireland from time to time;<sup>9</sup>

“relevant benefits” has the same meaning as in section 53 of the Act.<sup>10 11</sup>

(2) Regulation 3(3)(d) is to be construed —

- (a) in relation to a jobholder who is a worker who is working or ordinarily works in Great Britain under the worker’s contract, in accordance with the Pensions Act (GB) 2008 (see section 99 especially); or
- (b) in relation to a jobholder who is a worker who is working or ordinarily works in Northern Ireland under the worker’s contract, in accordance with the Pensions (No. 2) Act (NI) 2008 (see section 78 especially),

and any expression used in sub-paragraph (a) or (b) or in regulation 3(3)(d) shall have the same meaning as is given to that expression in the Pensions Act (GB) 2008 or the Pensions (No. 2) Act (NI) 2008 (as the case may be).<sup>12</sup>

### 3 Application

(1) For the purpose of section 53 of the Act, in the definition of “retirement benefits schemes”, the prescribed classes of schemes (schemes or arrangements which are not retirement benefits schemes for the purpose of the Act) include —

- (a) exempted insurance company contracts which, except for this sub-paragraph, would qualify as an international retirement benefits scheme;
- (b) a trust whose property consists wholly of exempted insurance company contracts which, except for this sub-paragraph, would qualify as an international retirement benefits scheme;
- (c) any annuity contract effected with a person —
  - (i) authorised under section 8 of the 2008 Act; or
  - (ii) in receipt of a Part 4A permission to effect or carry out contracts of insurance under the Financial Services and Markets Act 2000 (of Parliament);

provided that, the annuity contract is used solely for the purpose of securing relevant benefits;



- (d) any arrangement established by an individual on that individual's own life in which the only benefits provided are death benefits under a policy of insurance;
  - (e) any contract that is approved under section 49 or 49A of the Income Tax Act 1970;
  - (f) any arrangement whose sole purpose is to facilitate the immediate securing of relevant benefits, provided that —
    - (i) it is effected with a person specified in sub-paragraph (c)(i) or (c)(ii); and
    - (ii) the only benefits provided are annuity benefits or lump sum benefits or both; and
  - (g) with effect from 1 April 2015, any deed, agreement or arrangement made solely for the purpose of establishing an employer-financed retirement benefits scheme (as defined in section 393A of the Income Tax (Earnings and Pensions) Act 2003 (of Parliament)) by an employer resident in the United Kingdom, which —
    - (i) has in accordance with the requirements of section 251 of the Finance Act 2004 (of Parliament) and the Employer-Financed Retirement Benefits Schemes (Provision of Information) Regulations 2005<sup>5</sup> been reported to Her Majesty's Revenue and Customs;
    - (ii) is not registered under Chapter 2 of Part 4 of the Finance Act 2004 (of Parliament) as a registered pension scheme;
    - (iii) is not a scheme which is bona fide established for the sole or in the case of an international retirement benefits scheme, principal purpose of providing relevant benefits in respect of service as an employee, being benefits payable to, or to the widow, children or dependants or personal representatives of, the employee; and
    - (iv) is not approved by the Assessor of Income Tax for the purpose of —
      - (A) section 50B or 50C of the Income Tax Act 1970;
      - (B) section 1 or 2 of the Income Tax (Retirement Benefit Schemes) Act 1978; or
      - (C) Part 1 of the Income Tax Act 1989.<sup>13</sup>
- (2) The following arrangements shall be exempted from the provisions of the Act —
- (a) The Meritorious Service (Grants and Pensions) Act 1957<sup>2</sup>;
  - (b) The Isle of Man War Pensions Committee Regulations 2002<sup>3</sup>.<sup>14</sup>

<sup>2</sup> 1957 c.93

<sup>3</sup> SD 378/02 (as amended by SD 884/04, SD 728/06 and SD 137/07)

- (3) For the purpose of section 1(6) of the Act (schemes exempt from section 1(1), (2) and (3) of the Act), the prescribed descriptions of schemes shall include —
- (a) statutory schemes within the meaning of section 14 of the Income Tax (Retirement Benefit Schemes) Act 1978;
  - (b) any arrangement established by an employer for the payment of benefits on the death of employees in the employer's service and under the provisions of which —
    - (i) the only benefits provided are death benefits;
    - (ii) no member has rights which at any time have accrued to or in respect of that member at that time to future benefits under the scheme; and
    - (iii) all benefits are secured by a policy, or policies, of insurance;
  - (c) any occupational money purchase scheme established prior to the 1st May 2005 which has less than two members and under which all of the relevant benefits of the scheme are secured by policies of insurance or annuity contracts, and either —
    - (i) the payment of the relevant benefits of the scheme are provided by way of direct payment from the provider of the policies of insurance or annuity contracts to the beneficiaries of the scheme, or
    - (ii) the member of the scheme is the trustee of the scheme and the scheme documentation does not extend to the scheme trustee any powers to invest in assets other than insurance policies or annuity contracts;<sup>15</sup>
  - (d) an automatic enrolment scheme but only to the extent that a jobholder becomes an active member of such a scheme as a result of an employer who is resident in the Island making arrangements under —
    - (i) section 3(2), 5(2) or 7(3) of the Pensions Act (GB) 2008; or
    - (ii) section 3(2), 5(2) or 7(3) of the Pensions (No. 2) Act (NI) 2008, and the employer makes those arrangements for the purpose of complying with an enrolment duty under one of those sections.<sup>16 17</sup>

MADE              7 NOVEMBER 2001



## ENDNOTES

### Table of Endnote References

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- <sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.
- <sup>2</sup> Reg 2 heading substituted by SD2023/0208.
- <sup>3</sup> Definition of “the 1986 Act” revoked by SD2014/0049.
- <sup>4</sup> Definition of “the 2008 Act” inserted by SD2014/0049.
- <sup>5</sup> Definition of “Exempt insurance company contract” revoked by SD2014/0049.
- <sup>6</sup> Definition of “exempted insurance company contract” inserted by SD2014/0049.
- <sup>7</sup> Definition of “international retirement benefits scheme” inserted by SD2014/0049.
- <sup>8</sup> Definition of “Pensions Act (GB) 2008” inserted by SD2023/0208.
- <sup>9</sup> Definition of “Pensions (No.2) Act (NI) 2008” inserted by SD2023/0208.
- <sup>10</sup> Definition of “relevant benefits” inserted by SD63/06.
- <sup>11</sup> Existing text renumbered as para (1) by SD2023/0208.
- <sup>12</sup> Para (2) inserted by SD2023/0208.
- <sup>13</sup> Para (1) substituted by SD2014/0049.
- <sup>14</sup> Subpara (b) amended by SD2014/0049.
- <sup>15</sup> Subpara (c) inserted by SD63/06.
- <sup>16</sup> Subpara (d) inserted by SD2023/0208.
- <sup>17</sup> Para (3) inserted by SD597/04 and amended by SD2023/0208.

