



INTERNATIONAL RETIREMENT BENEFITS SCHEMES



ISLE OF MAN GOVERNMENT
Insurance and Pensions Authority

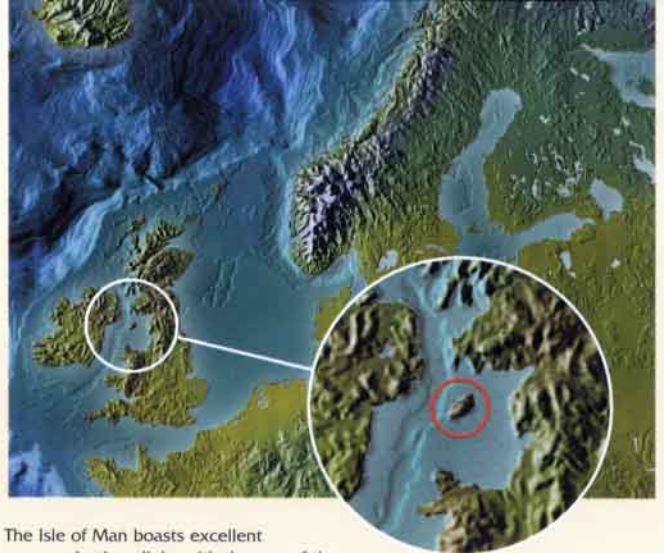




Isle of Man
Government Office
Oikyn Reiltys Ellan Vannin

STABILITY

LOCATION



The Isle of Man's strength and stability is reflected in the award of an 'AAA' credit rating by Standard & Poors and Moody's.

The Isle of Man boasts excellent communications links with the rest of the World, and is home to highly developed telecommunications and technology industries.

THE ISLE OF MAN

The Isle of Man is one of the world's most stable and secure financial centres, with over a thousand years of continuous government and political stability within its history. The Island adopts a proactive approach to regulation and legislation, introducing a wide range of regulatory and supervisory controls to maintain its position as a centre of considerable international repute.

With the introduction of legislation designed to facilitate the creation of regulated international retirement benefits schemes by the Insurance and Pensions Authority, significant advantages can be secured by multinational businesses seeking one stable and well regulated location as a central retirement benefits unit. In addition this framework provides a large degree of confidence to internationally mobile individuals who require a secure location in which to provide for their retirement.

PENSIONS REGULATION

In October 2000, Tynwald passed the Retirement Benefits Schemes Act 2000. This core piece of legislation establishes a broad regulatory framework that applies to all schemes operating in or from the Isle of Man. In consideration of the many different aspects of domestic and international pension arrangements, the regulatory framework has been separated into two principal parts 'international and domestic' by the Introduction of subordinate regulations made under the Act.

Copies of the international regulations – The Retirement Benefits Schemes (International Schemes) Regulations 2001 – about which this leaflet is primarily concerned may be downloaded from the Authority's web site at www.gov.im/lpa or can be obtained directly from the Authority.

The International Regulations prescribe that all schemes established on the Isle of Man in respect of non-Isle of Man based individuals or employees must be managed by suitably experienced trustees and administrators, and unless they are of a type capable of exemption, must be duly authorised by the Authority.

The regulations also outline information that must be provided to members of such schemes, establish the requirements regarding scheme administration, and

clarify the professional and record keeping responsibilities associated with these schemes.

The Regulations apply to both occupational and personal retirement benefits schemes.

INTERNATIONAL SCHEMES

The Retirement Benefits Schemes (International Schemes) Regulations 2001 aim to provide appropriate protection for all members and beneficiaries of international retirement benefits schemes. Before a scheme can be Authorised by the Authority, the rules must of course fully comply with the requirements of the governing legislation – the main requirements are summarised in the following paragraphs. It is also necessary for those persons managing the scheme (the trustees and administrators) to satisfy the Authority that they are fit and proper to undertake their functions. A scheme cannot be authorised where this process has not been satisfactorily completed.

Whilst it governs the operation of all Authorised international schemes, the legislation is not overly prescriptive in relation to the format in which benefits can be taken or in setting fixed parameters regarding contribution levels or retirement dates.

The legislation primarily provides benefit



protection to scheme members and employers, yet at the same time this flexibility in scheme construction offers advantages to global businesses and individuals. As such, Isle of Man authorised international schemes provide scope to be individually tailored to suit particular markets or to incorporate multi-jurisdictional features.

THE AUTHORISATION PROCESS

An overriding condition of authorisation is that the property of the scheme must be held under trust, and that an independent trustee has been appointed where a scheme is occupational. In addition, before a scheme may be registered as an Authorised scheme, the Authority must have first assessed the experience of those appointed to manage the scheme and be satisfied that they are fit and proper to act in this capacity. The registered scheme administrator must have a place of residence or business in





HISTORY

REGULATION



The old House of Keys, Castletown. The House of Keys is the lower, directly elected Branch of Tynwald and has consisted of twenty-four individual 'Keys' (representatives) since 1156.

Peel Castle situated on St Patrick's Isle was the principal residence of the Kings of Man until the first half of the thirteenth century.

the Isle of Man, whereas the trustees of a scheme need not necessarily reside in the Isle of Man. The registered schemes administrator is the person responsible for the day to day management of the scheme. To provide flexibility the legislation does allow for certain administrative functions to be performed in another jurisdiction provided all records are accessible locally to the Authority.

The forms required for a scheme to be registered as Authorised are available on request from the Authority or may be downloaded or printed directly from the Authority's web site at: www.gov.im/lpa

EXEMPTION FROM AUTHORISATION

Certain schemes may be exempt from the requirement to seek authorisation under the Act. Such exceptions are provided for in the Retirement Benefits Schemes (Excepted Schemes) Regulations 2001. These regulations exempt certain government guaranteed schemes and insured arrangements established by specific insurance companies authorised by the Authority. Trusts, which hold only these insurance contracts, may also be exempt from the requirements of the Act. Such arrangements may register for Authorisation, but are not automatically required to do so.

THE ROLE OF PROFESSIONAL ADVISORS IN RELATION TO A SCHEME

The regulations prescribe that persons who undertake certain professional advisory functions in relation to authorised schemes must possess relevant experience to act in this capacity. A summary of the requirements are:-

- The scheme auditor (where required) must be qualified to act as auditor of a company under section 14 of the Companies Act 1982; must hold professional indemnity assurance of £10m, or such lesser amount being not less than the current aggregate



value of liabilities plus deductibles where more than 1%. The auditor may not be a scheme trustee or member, the employing company or an employee of the employing company.

- The scheme actuary (where required) must be a Fellow of the Institute of Actuaries in England and Wales, or the Faculty of Actuaries of Scotland, or of a similar institute. Additionally, the Actuary may not be the employing company or a member or trustee of the scheme. Appointment of an Actuary is not a requirement for defined contribution (money purchase) schemes.
- The scheme investment manager (where required) must satisfy the trustee that he is qualified to undertake this role and has appropriate knowledge and experience of investments relative to retirement benefits schemes, and if operating in a jurisdiction which requires investment managers to be regulated must carry an appropriate license.

The appointment of all professional advisors must be made and acknowledged in writing, and must specify to whom the advisor is to report.

RECORD KEEPING REQUIREMENTS

The trustees of a scheme have various responsibilities for administration and record keeping.

Records must be kept on contributions to, and benefits paid by, a scheme. In addition, records of any transfers of assets, any appointments, removals or resignations of professional advisors, of meetings and receipts for monies dispatched must be kept.

The Trust Deed and Scheme Rules, statements of investment principles, annual accounts, actuarial valuations, and payment schedules must also be maintained in the Isle of Man and available for inspection by the Authority.

ACCOUNTING REQUIREMENTS

An annual report, including year-end accounts, must be submitted to the Authority in all cases. Although, a full auditor's report is not required in all cases. Certain schemes are exempt of the requirement to appoint an auditor whilst others are subject to limited audit requirement – full details may be obtained from the Authority.



Isle of Man Government

Rellys Ellen Vannin





Castle Rushen situated in Castletown the former Capital of the Isle of Man and, until the 19th Century, seat of Tynwald.

FLEXIBILITY

PROTECTION



The Tower of Refuge, built as a refuge for shipwrecked sailors by Sir William Hillary, founder of the Royal National Lifeboat Institution has stood near the entrance to Douglas harbour since 1832.

PRESERVATION OF BENEFITS

Immediate vesting (i.e. automatic preservation of benefit entitlements) applies to all personal pension schemes and to all transfer payments received into occupational schemes. For all other benefits attaching to international occupational schemes, a maximum vesting period of seven years must apply.

TRANSFERS TO AND FROM OTHER SCHEMES

Transfers to and from Authorised International schemes are generally permitted by the regulations, and are deemed to vest immediately. Transfer payments from Authorised schemes are normally restricted to payments made to other Isle of Man Authorised schemes or into policies of insurance issued by Isle of Man authorised life assurance companies. However, where a member wishes to transfer benefits outside of these parameters, the regulations do provide additional flexibility. The Authority allows benefits to be transferred to schemes outside of the above parameters providing that the member confirms in writing that they accept that the regulatory supervision of the transferred benefits may not be of equivalent standard, and that similar security to that

available in the Authorised scheme they are leaving, may not exist in the receiving scheme.

INVESTMENT POLICY

Unless a scheme is (1) a death benefit only scheme, (2) a scheme where all members are trustees; (3) a personal scheme where the trustee receives investment instructions from the member; or (4) a scheme which invests wholly into life assurance policies and/or recognised collective investment schemes, the trustee of that scheme must ensure that a written statement of investment principles is drawn up with their investment manager.

This is a detailed statement governing investment policy.

THE FORMAT THAT BENEFITS MUST TAKE

Due to the multi-jurisdictional potential of Isle of Man Authorised International schemes, the regulations do not set requirements regarding the format of scheme benefits, stipulate minimum or maximum contribution levels, or set fixed parameters for retirement dates.

The regulations do not therefore restrict flexibility in the establishment of scheme rules to suit various employer related or jurisdictional requirements.

INFORMATION TO MEMBERS

The Regulations provide members with certain rights regarding access to scheme information. In general they require trustees to issue new members with basic scheme information and to provide members with regular information concerning their accrued rights, contributions made, and the rights and options available upon retirement or death.

SECURITY

To further protect the interests of occupational scheme members, where all members are not also trustees the regulations restrict the investment of occupational scheme funds in the sponsoring employer to a maximum limit of 5%. Additionally, at least one of the scheme trustees must be independent of the employer and must be an account signatory. Restrictions also apply on forfeiture and liens of members' benefit rights.

REGISTRATION COSTS

There is no individual scheme authorisation fee. However, those undertaking the management of schemes



are liable for a registration fee. For 'in-house' schemes administrators, the annual registration fee is £200; for professional schemes administrators the fee is £2,000, regardless of the number of schemes authorised.

THE TECHNICAL READERS GUIDE

To assist the technical reader in navigating the international regulations, an explanatory note is provided with the regulations.

Both the international regulations and the principal Act may be obtained from the Authority or downloaded directly from the Authority web site at: www.gov.im/lpa.

For ease of reference, a copy of the explanatory note has been included overleaf.



THE REGULATIONS IN MORE DETAIL

These regulations are made principally under sections 6 and 51 of the Retirement Benefits Schemes Act 2000, to make provision for the registration of 'international' retirement benefits schemes. Separate regulations apply in respect on 'domestic' schemes.

Regulations 1 to 3 provide for the citation, commencement, definitions and application of the regulations.

Regulation 4 provides that the Supervisor may, on registering a scheme as an authorised scheme, issue a certificate of authorisation.

Regulation 5 establishes as a condition of continued authorisation the submission of annual returns to the Supervisor within 6 months of the end of a scheme year. The information to be included in the annual return is set out in the regulation.

Regulation 6 specifies the information to be held in the Public register of authorised international schemes.

Regulation 7 sets out the conditions that must be satisfied before a person may act as a professional adviser (auditor, actuary, investment manager) to a scheme trustee. It also provides for the method of appointment and for the provision of information (supplemental to section 18 of the Act) on removal or resignation of a professional adviser.

Regulation 8 exempts money purchase schemes from the statutory requirement to appoint a scheme actuary. It also exempts international schemes from the need to comply with the statutory technical funding (and contribution schedule) requirements introduced by section 7 of the Act. Paragraphs (3) and (4) require the trustee of a non-money purchase schemes to arrange for initial and subsequent valuation reports and statements to be prepared by their appointed scheme actuary. The form of the actuarial valuation and statement are set out in paragraph (5) and in Schedule 2. Paragraph (6) requires successive actuarial reports to be prepared at intervals of not later than 3 years after the date of a last valuation.

Regulation 9 provides that funds may not, except as otherwise specified (e.g. non-vested contributions), be paid to a scheme employer. Paragraphs (2) enables the employer to recover from scheme funds any monetary obligation due to it by reason of a member's criminal or fraudulent act or omission. Paragraphs (3) and (4) similarly restrict forfeiture or lien rules, whilst catering for delayed claims and bankruptcy. Paragraph (6) clarifies that scheme funds must not be used to provide (either directly or through insurance cover) for

reimbursement of any penalties or fines imposed on scheme trustees.

Regulation 10 sets out the minimum books and records that must be kept by scheme trustees. Paragraphs (3) to (5) provide that these records must be kept in the Island, either at the trustee's place of residence or that of the scheme administrator, for at least 6 years.

Regulation 11(1) excludes certain schemes from the requirement to prepare and maintain schedules of contribution payments, required by section 11 of the Act. Paragraphs (2) and (3) outline what must be included in these payment schedules, whilst paragraphs (4) and (5) set out what information must be disclosed should there be a failure to pay contributions in accordance with the agreed payment schedule; and also clarify to whom and when this information must be disclosed. Paragraph (6) requires an employer, on entering into an arrangement with an employee to pay contributions to the employee's personal scheme, to notify the scheme trustee of the establishment of the arrangement. Paragraph (7) requires an employer, on deduction of a contribution from an employee, to pay the deducted contribution to the scheme trustee within the specified minimum time limit.

Regulation 12 deals with the trustees powers of investment and their ability to delegate decisions about investment to their appointed investment manager.

Regulation 13 outlines trustees investment requirements and restrictions. Paragraphs (1) to (3) establish which schemes this regulation applies to and removes the requirement for the appointment of an investment manager to all other schemes. (Regulation 7(3) details who may be appointed as an investment manager.) Paragraphs (4) to (7) require trustees to prepare a statement of investment principles, and outline the information this statement must contain and the consultation procedures required in its establishment. Paragraphs (8) and (9) specify the requirements trustees must follow before making investments. Paragraphs (10) and (11) are concerned with the trustees' relationship with the professional adviser. Paragraphs (12) and (13) introduce limitations on employer related investments for occupational schemes. Specific definitions are provided for in paragraph (14).

Regulation 14 (and Schedule 3) provides for the form and content of scheme accounts required by section 15 of the Act. Paragraphs (3) and (4) establish the requirements for auditing of these accounts. (Regulation 8(1) establishes who may be appointed as scheme auditor.) Paragraph

(5) provides that the scheme auditor must prepare a statement to accompany scheme accounts and outlines the content of the statement. Paragraph (6) removes the requirement for the appointment of a scheme auditor where an auditors statement is not required. Specific definitions are provided for in paragraph (7).

Regulation 15 provides that a member who has vested accrued rights under an authorised scheme shall have the right to transfer those rights to an alternative arrangement, subject to the provisions of this regulation. Paragraph (3) outlines the value of the transferable rights. Paragraphs (4) to (6) provides for the conditions of such a transfer and outlines to whom a transfer may be paid. Paragraph (7) requires the trustee to make payment of the transfer within a 6 month period. Paragraph (8) confers the need for a members consent to be obtained before a transfer may be made and establishes limited exceptions to this requirement. Paragraph (9) requires that any member's accrued rights not transferred must generally continue to benefit from investment yields of the scheme. Paragraph (10) caters for the continued administrative expense of deferred members whilst paragraph (11) establishes conditions for refunding member contributions. Specific definitions are provided for in paragraph (12).

Regulations 16 to 21 provide for the need to disclose information to scheme members and their dependants. Regulation 16 outlines specific definitions and exemptions.

Regulation 17 requires basic scheme information to be provided to individuals within 2 months of their submitting a request or becoming scheme members.

Regulation 18 provides that scheme documentation must be made available to scheme members, subject to a reasonable charge being made.

Regulation 19 requires benefit information to be issued to occupational scheme members on their ceasing to be active scheme members.

Regulation 20 and 21 provide for the annual release of benefit information to scheme members and for the provision of information prior to benefits becoming payable, as well as the release of information in certain other general matters.

Regulation 22 requires the scheme trustee, subject to a reasonable charge, to make available to scheme members, copies of the annual return prepared under regulation 5.

Regulation 23 provides for offences. Additional offences (civil and criminal) are provided for by the Act.





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Front Cover Photograph – Tynwald Hill, St Johns, Isle of Man

Tynwald Hill measures just 80 feet in diameter, and 12 feet in height, but symbolises the Island's sturdy independence and the origins of our system of government.



**Isle of Man
Government**

Reillys Ellan Vannin

