
STATUTORY INSTRUMENTS

2006 No. 714

The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 2006

Modifications of sections 241 and 242 of the Act

5.—(1) Sections 241 (requirement for member-nominated trustees) and 242 (requirement for member-nominated directors of corporate trustees) of the Act are modified in their application to the cases prescribed in [F1 paragraphs (2) to (7)].

(2) In relation to a scheme where the scheme rules contain provisions requiring that there be more than one-third member-nominated trustees or directors as the case may be, sections 241 and 242 of the Act are modified as if—

- (a) in section 241(1)(a) for “at least one-third of the total number of trustees” there were substituted “the nomination and selection of member-nominated trustees at least in a proportion not less than that proportion set out in the scheme rules”;
- (b) section 241(4) were omitted;
- (c) in section 242(1)(a) for “at least one-third of the total number of directors of the company” there were substituted “the nomination and selection of member-nominated directors at least in a proportion not less than that proportion set out in the scheme rules”; and
- (d) section 242(4) were omitted.

(3) In relation to a scheme where the scheme rules provide that trustees of the scheme may be removed by a vote of the membership, then in relation to any application of that scheme rule, section 241 shall be modified as if subsection (6) were omitted.

(4) In relation to a scheme which has member-nominated trustees or, as the case may be, directors appointed under section 16(1) (requirement for member-nominated trustees) or section 18(1) of the 1995 Act (corporate trustees: member-nominated directors) immediately prior to the date those sections are repealed, sections 241 and 242 of the Act are modified as if—

- (a) in section 241 after subsection (2) there were inserted—

“(2A) In the case of a scheme which has member-nominated trustees appointed under section 16(1) ^{M1} of the Pensions Act 1995 immediately prior to the date that section was revoked, “member-nominated trustees” includes any member-nominated trustees appointed under that section for the remainder of their term of office under section 16(5).”; and
- (b) in section 242 after subsection (2) there were inserted—

“(2A) In the case of a scheme which has member-nominated directors appointed under section 18(1) ^{M2} of the Pensions Act 1995 immediately prior to the date that section was revoked, “member-nominated directors” includes any member-nominated directors appointed under that section for the remainder of their term of office under section 18(5).”.

(5) In relation to a scheme which has arrangements for the appointment of member-nominated trustees or directors approved under sections 17(1) or 19(1) of the 1995 Act, immediately prior to the date those sections are repealed, sections 241 and 242 of the Act are modified as if—

- (a) in section 241 for subsection (3)(a) and (b) there were substituted—
- “(a) the date the approval under regulation 20 of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996 ^{M3} (cessation of approval of appropriate rules and alternative arrangements) would cease to have effect but for the revocation of those Regulations; or
- (b) 31st October 2007,
whichever is the earlier.”; and
- (b) in section 242 for subsection (3)(a) and (b) there were substituted—
- “(a) the date the approval under regulation 20 of the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996 (cessation of approval of appropriate rules and alternative arrangements) would cease to have effect but for the revocation of those Regulations; or
- (b) 31st October 2007;
whichever is the earlier.”.
- (6) In relation to a scheme which has no active or pensioner members section 241 and 242 of the Act are modified as if for subsection (2)(a) in both sections, there were substituted—
- “(a) are nominated as the result of a process in which at least such deferred members as the trustees determine are eligible to participate, and”.
- [^{F2}(7) In relation to a scheme where—
- (a) every trustee is a company,
- (b) at least one trustee only has directors who are independent (or a sole director who is independent) within the meaning given by section 23(3) of the 1995 Act, and
- (c) at least one trustee has one or more directors who are not independent within that meaning,
- section 242 of the Act is modified as if after subsection (1), there were inserted—
- “(1A) But subsection (1) does not apply to such a company which only has directors who are independent (or a sole director who is independent) within the meaning given by section 23(3) of the Pensions Act 1995.”.]

Textual Amendments

- F1** Words in [reg. 5\(1\)](#) substituted (6.4.2009) by [Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **22(3)(a)**
- F2** [Reg. 5\(7\)](#) inserted (6.4.2009) by [Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **22(3)(b)**
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Marginal Citations

- M1** Section 16 is repealed by Part 1 of Schedule 13 to the Act.
- M2** Section 18 is repealed by Part 1 of Schedule 13 to the Act.
- M3** [S.I. 1996/1216](#).

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 2006, Section 5.