
STATUTORY INSTRUMENTS

1996 No. 1216

The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996

PART II

MEMBER-NOMINATED TRUSTEES

Section 16 arrangements and rules

Implementation of requirements as to member-nominated trustees: general

7.—(1) Subject to the following provisions of this regulation, the trustees of a trust scheme to which section 16 (requirement for member-nominated trustees) applies must secure—

- (a) that such arrangements as are required by section 16(1) are made; and
- (b) that member-nominated trustees are required to be selected in pursuance of the appropriate rules,

by such times as to secure that the number of such trustees never falls below the number provided for by the arrangements in accordance with section 16(6).

(2) Paragraph (1) does not apply during the period of six months beginning—

- (a) in the case of a scheme to which section 16 applies on the commencement date, with that date;
- (b) in the case of a scheme to which section 16 first applies after the commencement date, with the date on which it first applies to the scheme;
- (c) in the case of a scheme to which section 16 has ceased to apply and then reapplies (otherwise than by virtue of section 17(1) ceasing to apply to it or its ceasing to be a relevant scheme), with the date on which section 16 reapplies to it; and
- (d) if—
 - (i) before the expiry of the period of six months beginning with the date mentioned in paragraph (a), (b) or (c) the employer duly gives notice under regulation 9(1)(a) that he intends to propose alternative arrangements, but
 - (ii) the conditions imposed by regulation 9(1)(b) for the application of section 17(1) are not satisfied within the approval period,

with the opt-out failure date.

(3) A deficiency in the number of member-nominated trustees provided for by the arrangements in accordance with section 16(6) is not a breach of the requirement in paragraph (1) during the appropriate excepted period—

- (a) if a vacancy for such a trustee has not been filled because insufficient nominations are received;

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- (b) if such a trustee has ceased to be a trustee otherwise than by virtue of the expiry of his period of office; or
 - (c) if the number of members a scheme comprises increases from less than 100 at the end of one scheme year to 100 or more at the end of the next scheme year ("the second year").
- (4) In paragraph (3) "the appropriate excepted period" means—
- (a) where paragraph (3)(a) applies, the period during which, if there had been sufficient nominations for a member-nominated trustee to be selected by nomination, his selection would have had effect in accordance with the arrangements made under section 16(5) for the scheme;
 - (b) where paragraph (3)(b) applies, the period of six months beginning with the cessation or the remainder of the trustee's period of office, if less; and
 - (c) where paragraph (3)(c) applies, the first six months of the year following the second year.

Appropriate rules as to the selection and eligibility of member-nominated trustees

8.—(1) The trustees of a scheme to which section 16 applies, or to which it would apply apart from section 17(1) or regulation 4, may at any time propose appropriate rules in respect of the scheme.

(2) The statutory consultation procedure for such rules is set out in Schedule 1 (which also sets out the conditions which must be satisfied for the approval of such rules).

(3) In that Schedule "the proposer", in relation to such rules, means the trustees of the scheme.

(4) The prescribed rules for the purposes of section 20(1)(b) (which are the appropriate rules for a scheme to which section 16 applies, if no other rules are for the time being approved) are the rules set out in Part I of Schedule 2.

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Changes and effects yet to be applied to :

- [reg.20\(1\)\(g\)\(ii\) amended by S.I. 1996/1216 reg.19Sch.3 para.2\(5\)\(a\)\(b\)](#)
- [reg.16\(2\)\(b\)\(i\) applied by S.I. 1996/1216 reg.19Sch.3 para.2\(a\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- [Sch.4 para.3\(1\)\(5\) amended by S.I. 1996/1216 reg.19Sch.3 para.2\(7\)\(a\)](#)
- [Sch.4 para.3\(5\)\(e\) amended by S.I. 1996/1216 reg.19Sch.3 para.2\(7\)\(b\)](#)
- [reg.15\(2\)\(a\)\(i\)reg.15\(2\)\(a\)\(ii\)\(b\)\(i\) amended by S.I. 1996/1216 reg.19Sch.3 para.3\(3\)\(b\)\(i\)\(ii\)](#)
- [reg.13\(2\)\(d\) substituted by S.I. 1996/1216 reg.19Sch.3 para.3\(2\)](#)
- [reg.2 \(defns. of alternative arrangements and opt- out failure date\) applied by S.I. 1996/1216 reg.19Sch.3 para 2\(a\)](#)
- [reg.9\(2\)\(a\)\(i\)reg.9\(2\)\(a\)\(ii\)\(b\)\(i\) amended by S.I. 1996/1216 reg.19Sch.3 para.2\(3\)\(b\)\(i\)\(ii\)](#)