
STATUTORY INSTRUMENTS

1996 No. 1216

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

PART III

MEMBER-NOMINATED DIRECTORS

Section 18 arrangements and rules

Implementation of requirements as to member-nominated directors: general

13.—(1) Subject to the following provisions of this regulation, a company to which section 18 (requirement for member-nominated directors) applies must secure—

- (a) that such arrangements as are required by section 18(1) are made; and
- (b) that member-nominated directors are required to be selected in pursuance of the appropriate rules,

by such times as to secure that the number of such directors never falls below the number provided for by the arrangements in accordance with section 18(6).

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

- (a) in the case of a company to which section 18 applies on the commencement date, with that date;
- (b) in the case of a company to which section 18 first applies after the commencement date, with the date on which it first applies to the company;
- (c) in the case of a company to which section 18 has ceased to apply and then reapplies (otherwise than by virtue of section 19(1) ceasing to apply to it or section 16 or 17(1) ceasing to apply to any relevant scheme), with the date on which section 18 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 15(1)(a) that he intends to propose alternative arrangements, but

- (ii) the conditions imposed by regulation 15(1)(b) for the application of section 19(1) are not satisfied within the approval period,

with the opt-out failure date.

(3) A deficiency in the number of member-nominated directors provided for by the arrangements in accordance with section 18(6) is not a breach of the requirement in paragraph (1) during the appropriate excepted period—

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

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- (b) if such a director has ceased to be a director otherwise than by virtue of the expiry of his period of office; or
 - (c) if the number of members any relevant 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 director to be selected by nomination, his selection would have had effect in accordance with the arrangements made under section 18(5) (periods of office) for the company;
 - (b) where paragraph (3)(b) applies, the period of six months beginning with the cessation or the remainder of the director’s period of office, if less;
 - (c) where paragraph (3)(c) applies, the first six months of the year following the second year.
- (5) Where section 18 applies to a company by virtue of its being trustee of a relevant scheme and—
- (a) another company is also a trustee of the scheme; or
 - (b) the company became trustee in place of a company to which section 18 applied by virtue of its being trustee of the scheme,

then paragraph (2) has effect—

- (i) with the omission of paragraphs (2)(b) and (c); and
- [^{F1}(ii) with the omission from paragraph (2)(d)(i) of the words “(b) or (c)”];

F1 Reg. 13(5)(ii) substituted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1, **Sch. 1 para. 5(8)** (with Sch. 1 para. 5(15))

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

14.—(1) A company to which section 18 applies or to which it would apply apart from section 19(1) or regulation 6 may at any time propose appropriate rules in respect of the company.

(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 company.

(4) The prescribed rules for the purposes of section 20(1)(b) (which are the appropriate rules for a company to which section 18 applies, if no other rules are for the time being approved) are the rules applicable by virtue of Part II of Schedule 2.

Changes to legislation:

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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\(3\)\(b\)\(i\)\(ii\)](#)