
STATUTORY INSTRUMENTS

2005 No. 703

**The Occupational Pension Schemes
(Independent Trustee) Regulations 2005**

Disclosure requirements and penalty

13.—(1) A trustee appointed to a scheme by order made under section 7(1) or (3) of the 1995 Act^{M1} (appointment of trustees) and an independent trustee appointed to a scheme by order made under section 23(1) of the 1995 Act (both referred to in this regulation as “the appointed trustee”) must furnish the information specified in paragraph (2) in accordance with the following provisions of this regulation.

(2) The information specified for the purposes of paragraph (1) is—

- (a) the name and address of the appointed trustee;
- (b) the scale of fees that will be chargeable by the appointed trustee and payable by the scheme;
- (c) details of each of the amounts charged to the scheme by the appointed trustee in the past 12 months.

(3) The appointed trustee must furnish the information specified in paragraph (2)(a) in writing to every member or relevant trade union as of course within a reasonable period following his appointment.

(4) The appointed trustee must furnish any of the information specified in paragraph (2) in writing to any member or prospective member or relevant trade union on request (not being a request made less than 12 months after the last occasion on which such information was furnished to the same person or trade union) within a reasonable period following the request being made.

(5) Where the appointed trustee fails to take all reasonable steps to comply with any requirement imposed upon him by this regulation, the Regulator may [^{F1}by notice in writing] require him to pay, within 28 days, a penalty which—

- (a) in the case of an individual, shall not exceed £5,000; and
- (b) in any other case, shall not exceed £50,000.

(6) In this regulation—

“member”—

- (a) does not include a deferred member whose present address is not known to the trustees and in respect of whom correspondence sent by the trustees to his last known address has been returned, and
- (b) includes a person who is in receipt of benefits under the scheme by virtue of having been a dependant of someone who was a member;

“prospective member” means any person who, under the terms of his contract of service and the scheme rules—

- (a) is eligible, at his own option, to become a member of the scheme;
- (b) will become so eligible if he continues in the same employment for a sufficiently long period;

(c) will be admitted to membership of the scheme automatically unless he makes an election not to become a member; or

(d) may be admitted to it subject to the consent of his employer;

“relevant trade union” means an independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme in question; and

“request” means a request in writing.

(7) Any question as to whether an organisation is a relevant trade union shall be referred to an employment tribunal.

(8) Any information which this regulation requires the appointed trustee to furnish as of course to a member who is not in any employment to which the scheme relates shall be deemed to have been so furnished if it was sent to him by post to his last address known to the trustees.

[^{F2}(9) The appointed trustee may give any information under this regulation in accordance with regulations 26 to 28 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (giving information and documents).]

Textual Amendments

F1 Words in reg. 13(5) inserted (6.4.2009) by [Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **17(2)**

F2 [Reg. 13\(9\) inserted \(6.4.2014\) by The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 12**

Marginal Citations

M1 Section 7(1) is amended by sections 319(1) and 320 of, and paragraphs 34 and 36(a) of Schedule 12 and Part 1 of Schedule 13 to, the 2004 Act.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Independent Trustee) Regulations 2005, Section 13.