

**2002 No. 2327**

**PENSIONS**

**The Occupational Pension Schemes (Member-nominated Trustees and Directors) Amendment Regulations 2002**

*Made* - - - - - *9th September 2002*

*Laid before Parliament* *13th September 2002*

*Coming into force* - - - *6th October 2002*

The Secretary of State for Work and Pensions, in exercise of the powers conferred on him by sections 17(1)(c), 19(1)(c), 21(5) and (6) and 124(1) of the Pensions Act 1995(a), and of all other powers enabling him in that behalf, having consulted such persons as he considers appropriate(b), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Member-nominated Trustees and Directors) Amendment Regulations 2002 and shall come into force on 6th October 2002.

(2) In these Regulations, “the Member-nominated Trustees Regulations” means the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996(c).

**Amendment of the Member-nominated Trustees Regulations**

2. The Member-nominated Trustees Regulations shall be amended in accordance with regulations 3 to 6 below.

**Amendment of regulation 9**

3. In paragraph (2) of regulation 9(d) (proposals by the employer for alternative arrangements under section 17)—

(a) in sub-paragraph (a)—

(i) at the end of paragraph (ii) there shall be omitted the word “or”; and

(ii) for paragraph (iii) there shall be substituted the following paragraphs—

“(iii) except where paragraph (iv) applies, any time not less than ten years after the date applicable under paragraph (i) or, if such a notice as is mentioned in paragraph (ii) has been given, after the date mentioned in that paragraph; or

(iv) any time not less than four years after—

(aa) the date section 16 first applies to the scheme, where this occurs on or after 6th October 2002; or

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(a) 1995 c. 26. Section 124(1) is cited for the meaning given to “prescribed” and “regulations”.

(b) See section 120(1) of the Pensions Act 1995.

(c) S.I. 1996/1216; the relevant amending instruments are S.I. 1997/786 and 1999/3198.

(d) Regulation 9 was amended by S.I. 1997/786.

- (bb) the date mentioned in paragraph (ii) if such a notice as is mentioned in that paragraph is given on or after 6th October 2002;” and
- (b) for sub-paragraph (c) there shall be substituted the following sub-paragraphs—
  - “(c) in the case of a second or subsequent notice under paragraph (1)(a) which is given in respect of a scheme to which section 16 applies—
    - (i) except where paragraph (ii) applies, any time after the expiry of the period of ten years beginning with—
      - (aa) the date on which the last such notice was given to the trustees of the scheme;
      - (bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or
      - (cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of paragraph (1)(d)(ii) of regulation 20, the date on which it did so, whichever is the latest; or
    - (ii) where the latest of the following dates—
      - (aa) the date on which the last such notice was given to the trustees of the scheme;
      - (bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or
      - (cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of paragraph (1)(d)(ii) of regulation 20, the date on which it did so, occurs on or after 6th October 2002, any time after the expiry of the period of four years beginning with that latest date;
  - (d) at any other time provided that the trustees of the scheme have consented to the employer giving the notice under paragraph (1)(a) at that time.”.

#### **Amendment of regulation 15**

**4.** In paragraph (2) of regulation 15(a) (proposals by the employer for alternative arrangements under section 19)—

- (a) in sub-paragraph (a)—
  - (i) at the end of paragraph (ii) there shall be omitted the word “or”; and
  - (ii) for paragraph (iii) there shall be substituted the following paragraphs—
    - “(iii) except where paragraph (iv) applies, any time not less than ten years after the date applicable under paragraph (i) or, if such a notice as is mentioned in paragraph (ii) has been given, after the date mentioned in that paragraph; or
    - (iv) any time not less than four years after—
      - (aa) the date section 18 first applies to the company, where this occurs on or after 6th October 2002; or
      - (bb) the date mentioned in paragraph (ii) if such a notice as is mentioned in that paragraph is given on or after 6th October 2002;” and
- (b) for sub-paragraph (c) there shall be substituted the following sub-paragraphs—
  - “(c) in the case of a second or subsequent notice under paragraph (1)(a) which is given in respect of a company to which section 18 applies—
    - (i) except where paragraph (ii) applies, any time after the expiry of the period of ten years beginning with—
      - (aa) the date on which the last such notice was given to the company;
      - (bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or
      - (cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of paragraph (1)(f)(ii) of regulation 20, the date on which it did so, whichever is the latest; or

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(a) Regulation 15 was amended by S.I. 1997/786.

- (ii) where the latest of the following dates—
  - (aa) the date on which the last such notice was given to the company;
  - (bb) the date which is the last permitted notice time falling within sub-paragraph (b)(i), or
  - (cc) in a case where the approval of alternative arrangements for the scheme has ceased to have effect by virtue of paragraph (1)(f)(ii) of regulation 20, the date on which it did so,
    - occurs on or after 6th October 2002, any time after the expiry of the period of four years beginning with that latest date;
- (d) at any other time provided that the company has consented to the employer giving the notice under paragraph (1)(a) at that time.”.

#### **Amendment of regulation 20**

**5.** In paragraph (1) of regulation 20(a) (cessation of approval of appropriate rules and alternative arrangements)—

- (a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
  - “(a) at the expiry of—
    - (i) except where paragraph (ii) applies, the period of ten years beginning with the date on which the rules or arrangements were treated as approved under paragraph 8 or, as the case may be, paragraph 9 of Schedule 1; or
    - (ii) where, in the case of an approval of arrangements under section 17 or 19, the employer gives notice in accordance with regulation 9(1)(a) or 15(1)(a) on or after 6th October 2002, the period of four years beginning with the date on which the arrangements were treated as approved under paragraph 8 or, as the case may be, paragraph 9 of Schedule 1;”;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
  - “(b) on the date on which fresh rules or arrangements are treated as approved under paragraph 8 or, as the case may be, paragraph 9 of Schedule 1;”.

#### **Amendment of Schedule 3**

**6.** In paragraph 3(3)(b) of Schedule 3 (modifications where a company to which section 18 applies is the employer)—

- (a) in paragraph (a)(i) for the words “a permitted notice” there shall be substituted the word “any”; and
- (b) for paragraphs (b) and (c) there shall be substituted the following paragraphs—
  - “(b) paragraph (2) is omitted;
  - (c) for paragraph (3) substitute—
    - “(3) In paragraph (1) the “approval period”, in relation to alternative arrangements, means, the period of six months beginning with the date on which notice is given under Schedule 1.”;
  - (d) paragraph (4) is omitted.”.

Signed by authority of the Secretary of State for Work and Pensions.

*Malcom Wicks*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

9th September 2002

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(a) Regulation 20 was amended by S.I. 1997/786.

(b) Paragraph 3 of Schedule 3 was amended by S.I. 1997/786 and 1999/3198.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996 (“the Member-nominated Trustees Regulations”) which concern the selection and appointment of member-nominated trustees and directors under sections 16 to 21 of the Pensions Act 1995.

The purpose of the Regulations is to extend the approval of alternative arrangements for selecting the trustees or directors of a scheme, and of appropriate rules for that same purpose, so that the approval ceases after a period of ten rather than six years. Where an employer seeks fresh approval of alternative arrangements on or after 6th October 2002 that approval will cease after four years.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 introduces the changes made by regulations 3 to 6 of these Regulations.

Regulation 3 amends regulation 9(2)(a) and (c) of the Member-nominated Trustees Regulations by substituting new definitions of “permitted notice time”. These amendments are consequential upon the amendments made to regulation 20(1)(a) of the Member-nominated Trustees Regulations by these Regulations. Regulation 3 further amends regulation 9(2) by inserting a new sub-paragraph (d). This enables an employer who intends to propose alternative arrangements for selecting the trustees of the scheme to give notice of his intention at any time other than the permitted notice times described in regulation 9(2)(a) to (c), provided that the trustees have consented to the employer giving the notice at that time.

Regulation 4 makes similar amendments to regulation 15 of the Member-nominated Trustees Regulations with regard to the employer giving notice to the company in respect of proposing alternative arrangements concerning the selection of directors.

Regulation 5 amends regulation 20(1) of the Member-nominated Trustees Regulations by substituting new sub-paragraphs (a) and (b). Under regulation 20(1)(a)(i) the approval of appropriate rules or alternative arrangements ceases to have effect upon the expiry of ten years beginning with the date the rules or arrangements were treated as approved under those Regulations, rather than upon the expiry of six years. Under regulation 20(1)(a)(ii) the approval of alternative arrangements ceases to have effect upon the expiry of four years, where the employer gives notice in accordance with regulation 9(1)(a) or 15(1)(a) on or after 6th October 2002. Under regulation 20(1)(b) the approval of appropriate rules or alternative arrangements ceases to have effect on the date on which fresh rules or arrangements are treated as approved.

Regulation 6 of these Regulations amends paragraph 3 of Schedule 3 to the Member-nominated Trustees Regulations to modify regulation 15 as amended in its application to cases where a section 18 company is the employer. In such cases alternative arrangements may be proposed at any time.

These Regulations do not impose any costs on business.

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