

S.I. No. 286/1997 - European Communities (Occupational Benefit Schemes) Regulations, 1997

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EUROPEAN COMMUNITIES (OCCUPATIONAL BENEFIT SCHEMES) REGULATIONS, 1997

The Minister for Social Welfare, in exercise of the powers conferred on him by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 96/97/EC of 20 December 1996* amending Council Directive No. 86/378/EEC of 24 July 1986† on the implementation of the principle of equal treatment for men and women in occupational social security schemes, hereby makes the following regulations:

*(O J No. L46 of 17.2.97 p.20)

†(O J No. L225 of 12.8.86 p.40)

1. (1) These Regulations may be cited as the European Communities (Occupational Benefit Schemes) Regulations, 1997.

(2) These Regulations shall come into operation on the 1st day of July, 1997.

2. In these Regulations—

"the Act of 1996" means the Pensions (Amendment) Act, 1996 (No. 18 of 1996);

"the Principal Act" means the Pensions Act, 1990 (No. 25 of 1990).

3. The definition of "occupational benefit scheme" (inserted by section 29 of the Act of 1996) in section 65 of the Principal Act is hereby amended by the substitution for paragraphs (a) to (c) of the following:

"(a) any individual contract made by or on behalf of a self-employed person, or

(b) any scheme for a self-employed person which has only one member, or

(c) any insurance contract made by or on behalf of an employed person to which the employer is not a party, or

(*d*) any scheme in so far as benefits are financed by contributions paid by the members on a voluntary basis."

4. The Principal Act is hereby amended by the substitution for section 69 (as amended by section 61 of the Social Welfare Act, 1992 (No. 5 of 1992)) of the following section:

"69. (1) In determining whether an occupational benefit scheme complies with the principle of equal treatment under section 66, account shall not to be taken of—

(*a*) any difference, on the basis of the sex of the members, in the levels of contributions which the employer makes, to the extent that the difference is for the purposes of—

(i) removing or limiting differences, as between men and women in the amount or value of benefits provided under a defined contribution scheme, or

(ii) ensuring the adequacy of the funds necessary to cover the cost of the benefits defined under a defined benefit scheme,

(*b*) any difference, on the basis of the sex of members in the amount or value of—

(i) benefits provided under a defined contribution scheme to the extent that the difference is justifiable on actuarial grounds, or

(ii) certain elements of benefits provided under a defined benefit scheme, to the extent that the difference results from the effects of the use of actuarial factors differing according to sex at the time when the funding of such scheme is implemented, such as—

(A) the conversion into a capital sum of part of a periodic pension,

(B) transfer of pension rights,

(C) a reversible pension payable to a dependant in return for the surrender of part of a pension, or

(D) a reduced pension where the employee opts to take early retirement,