

# Achieving Compliance in Relation to IORP II Legislation and Tracing Deferred Pension Members



*With IORP II signed into Irish legislation in April 2021 pension schemes will need to meet a raft of new requirements including providing scheme members with annual benefit statements, a task that could become particularly difficult and time-consuming in the case of deferred members writes Hibernian Legal, a Dye & Durham company's URSULA MCDERMOTT.*

IORP II legislation has now come into force to improve the management of pension schemes and to set common standards, ensuring the soundness of occupational pensions with the aim of protecting pension scheme members and beneficiaries better.

As an EU Directive, The European Union (Occupational Pension Schemes) Regulations 2021 was signed into Irish legislation in April 2021. The regulations apply to Occupational Pensions Schemes (OPS), including Small Self-Administered Pension Schemes (SSAPS) and Group Company Pension Plans. Personal Retirement Bonds, Personal Retirement Savings Accounts, Approved Retirement Funds or most Personal Pension Plans are not included in the provision of IORP II.

There are various obligations covered in the 70 pages of documentation designed to update the legislative regime for pensions and further guidance on navigating these new rules is expected from the Pensions Authority. However, one key point which has come to light is the need for pension providers to provide annual benefit statements to both active and deferred members to improve governance and operation of occupational pension schemes.

This important point means pension providers in Ireland are now legally required to have a plan in place outlining how they will issue annual statements to all members of SSAPS and Group Pension Plans by the end of January 2022, with the programme of communication to be implemented by the end of 2022. Such a plan will need to include the provision to contact every member of a pension scheme to ensure current information is up to date. However, challenges may arise with deferred members. Naturally, because no-one will have been contributing to a deferred pension for a period of time, contact details may have changed, people may have moved house or even deceased.

Ensuring annual statements are sent to a correct current address is essential and re-establishing this factual information will be



both challenging and time consuming. One firm has estimated the scale of the issue could involve between 40-60% of deferred members who don't respond to notification requests to update current records.

This leaves pension providers with few options. To maintain GDPR compliance it would be possible to use a private investigator to contact each individual member who doesn't respond to correspondence. However, the cost for large numbers of tracing cases could become significant. The alternative is to use a professional tracing service such as Hibernian Legal's tracing, asset and lifestyle investigations.

Our experienced, dedicated team are experts in locating and confirming up-to-date addresses for individuals. We already conduct extensive in-house searching, together with a site visit, historically to determine a current place of residence for large financial institutions and solicitors where a subject is evading service or where they have simply moved address. We are licensed with the Private Security Authority (PSA Licence Number 06017) ensuring we hold the legal requirements needed to carry out this type of investigative work. When required, our network of agents across the country - which include former members of An Garda Síochána - will personally visit the address and provide up to date information to determine a current place of residence. This service has now been

extended to pension providers to help them comply with the new legislation in a cost-effective way.

Mary Clare, head of the tracing department at Hibernian Legal confirms: 'The new IORP II legislation has significant implications for pension providers who will now need to demonstrate they have done everything in their power to provide annual statements to members including deferred members. This development will require adherence to GDPR regulation and demonstration of due diligence to communicate properly with members at the same time. At Hibernian Legal, our discreet tracing service solves these challenges by confirming current address information in an efficient way ensuring compliance with regulation at the same time. Reports are returned quickly and can be tailored to suit a client's budget. We also have 100% success rate for client audits, so tracing services are in safe hands with Hibernian Legal.'

Given the significance of these legislative changes, pension providers will certainly need time to work towards implementing new processes to ensure compliance. Practically, Hibernian Legal is on hand to help with tracing services providing many years' expertise in this area for the benefit of our clients within Ireland.

As Hibernian Legal moves under the Dye & Durham umbrella we can now offer even more services to financial services and legal clients. This may be through our continued ability to be the 'one stop shop' for tracing and lifestyle asset enquiries, technology applications, all law searching and town agency work, or being able to open-up the provision for more services including title insurance.

***Ursula McDermott is Director of Operations at Hibernian Legal, a Dye & Durham Company***

*For further information about our full range of services please see: <https://dyedurham.com/>*