



STATUTORY INSTRUMENTS.

**S.I. No. 435 of 2022**

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EUROPEAN UNION (PAN-EUROPEAN PERSONAL PENSION  
PRODUCT) REGULATIONS 2022

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I, Paschal Donohue, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EU) No 2019/1238 of the European Parliament and Council of 20 June 2019<sup>1</sup>, hereby make the following regulations:

*Citation*

1. These Regulations may be cited as the European Union (Pan-European Personal Pension Product) Regulations 2022.

*Interpretation*

2. (1) In these Regulations—

“Act of 1942” means the Central Bank Act 1942 (No. 22 of 1942);

“Bank” means the Central Bank of Ireland;

“contravention” includes, in relation to any provision of the PEPP Regulation, a failure to comply with that provision, and also includes—

- (a) attempting to commit a contravention,
- (b) aiding, abetting, counselling or procuring a person to commit a contravention,
- (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention,
- (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention, and
- (e) conspiring with others to commit a contravention;

“enactment” has the same meaning as it has in the Interpretation Act 2005 (No. 23 of 2005);

“PEPP Regulation” means Regulation (EU) No 2019/1238 of the European Parliament and Council of 20 June 2019<sup>2</sup>.

(2) A word or expression which is used in these Regulations and is also used in the PEPP Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the PEPP Regulation.

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<sup>1</sup> OJ No. L. 198, 25.7.2019, p.1.

<sup>2</sup> OJ No. L. 198, 25.7.2019, p.1.

*Designation of Bank as competent authority*

3. The Bank is designated as the competent authority in the State responsible for supervising PEPP providers and PEPP distributors and for carrying out the functions of a competent authority provided for in the PEPP Regulation.

*Power of Bank to issue directions to relevant person*

4. (1) Where the Bank considers it necessary to do so for the purposes of its functions under the PEPP Regulation or these Regulations, it may issue a direction in writing to a relevant person to take, or refrain from taking or to prohibit, such actions as are specified in the direction for the purpose of—

- (a) ensuring compliance by the relevant person with the PEPP Regulation or these Regulations, or
- (b) preventing any person from contravening or continuing to contravene a provision of the PEPP Regulation or these Regulations.

(2) Where the Bank considers it necessary to do so for the purposes of paragraph (1), the Bank may, on or after the date on which a direction issued under that paragraph ceases to have effect, issue another direction to the relevant person concerned to take, or refrain from taking or to prohibit, such actions as are specified in the direction.

(3) A direction issued under paragraph (1) or (2) shall—

- (a) subject to subparagraph (b), take effect on and after such date, or the occurrence of such event, as is specified in the direction for the purpose,
- (b) cease to have effect—
  - (i) on such date, or the occurrence of such event, as is specified in the direction for the purpose, or
  - (ii) on the expiration of the period of 12 months, if not otherwise specified, immediately following the day on which the direction takes effect,

and

- (c) be complied with by any relevant person to whom a direction is given under paragraph (1) or (2) within such reasonable period as may be specified in the direction.

(4) A relevant person may apply to the Court for, and the Court may, if it considers it appropriate to do so, grant an order affirming, setting aside or varying a direction issued under paragraph (1) or (2).

(5) An application under paragraph (4) shall be made not later than 14 days after the date of receipt, by the applicant, of the notification of the direction or within such extended period as the Court allows.

(6) Where a direction under this Regulation is not or has not been complied with or is, in the opinion of the Bank, unlikely to be complied with, the Bank

may apply to the Court in a summary manner for an order enforcing the direction.

(7) At the hearing of an application made under paragraph (4) or (6), the Court may make such order as it considers appropriate in the circumstances (including an order dismissing the application).

(8) The Court may direct the hearing together of applications made under paragraphs (4) and (6) that relate to the same direction.

(9) Where the Court is satisfied that it is desirable, because of the nature or the circumstances of the case, or having regard to the interests of justice, then the whole or any part of proceedings relating to an application under paragraphs (4) or (6) before it may be heard otherwise than in public.

(10) In this Regulation—

- (a) “Court” means the High Court;
- (b) “relevant person” means an undertaking referred to in point (c) of Article 6(1) of the PEPP Regulation.

#### *Co-operation between Pensions Authority and Bank*

5. (1) The Pensions Authority shall, where requested in writing by the Bank to provide assistance or information in relation to a relevant IORP, provide the Bank with such assistance and information as is necessary to enable the Bank to perform its functions under the PEPP Regulation and these Regulations.

(2) In paragraph (1), “relevant IORP” means an institution for occupational retirement provision authorised or registered in accordance with Directive (EU) 2016/2341 which, pursuant to national law in the Member State in which it is registered, is authorised to provide, and is supervised in relation to the provision of, personal pension products.

#### *Administrative sanctions*

6. (1) Where the provisions of the Act of 1942 are invoked in relation to a contravention of the PEPP Regulation, any of the sanctions referred to in Article 67(3) of that Regulation may be imposed by the Bank—

- (a) following an inquiry under section 33AO of the Act of 1942, or
- (b) in accordance with section 33AR or section 33AV of the Act of 1942.

(2) Subject to subsection (3), the power of the Bank to impose any of the sanctions referred to in Article 67(3) of the PEPP Regulation is in addition to and not in substitution for its power to impose any of the sanctions specified in section 33AQ of the Act of 1942.

(3) Where the sanction imposed by the Bank is a direction to a legal person to pay a monetary penalty under section 33AQ(3)(c) of the Act of 1942, the amount of that penalty shall not exceed the amount of the maximum

administrative fine calculated in accordance with Article 67(3)(e) of the PEPP Regulation.

(4) For the purposes of a contravention of the PEPP Regulation, any reference in the Act of 1942 to the sanctions set out in section 33AQ of that Act is to be read as including a reference to the sanctions referred to in Article 67(3) of the PEPP Regulation.

#### *Appealable decisions*

7. (1) A decision of the Bank to refuse to grant registration of a PEPP under Article 6 of the PEPP Regulation is an appealable decision for the purposes of Part VIIA of the Act of 1942.

(2) Where the State is the home Member State of a PEPP provider, a refusal or failure to reply (referred to in the second sentence of the second subparagraph of Article 15(2) of the PEPP Regulation), on the Part of the Bank, shall be an appealable decision for the purposes of Part VIIA of the Act of 1942.

#### *Decumulation phase*

8. (1) Subject to paragraphs (2) and (3), the decumulation phase in respect of a PEPP account shall not commence before the date on which the PEPP beneficiary concerned attains the age of 60 years.

(2) The decumulation phase in respect of a PEPP account may commence on or after the date on which the PEPP saver concerned attains the age of 50 years where—

- (a) the PEPP saver has retired from employment, or
- (b) the PEPP saver's occupation is one in which individuals customarily retire before attaining the age of 60 years.

(3) The decumulation phase in respect of a PEPP account may commence before the date on which the PEPP saver concerned attains the age of 60 years where the PEPP saver has become permanently incapable through infirmity of mind or body of carrying on the PEPP saver's own occupation or any occupation of a similar nature for which the PEPP saver is trained or fitted.

(4) The decumulation phase for a PEPP account shall commence no later than the first to occur of—

- (a) the date on which the PEPP saver concerned attains the age of 75 years, and
- (b) the date on which the PEPP beneficiary concerned attains the age of 75 years.

#### *Information in possession of Revenue Commissioners*

9. (1) Notwithstanding section 851A of the Taxes Consolidation Act 1997 (No. 39 of 1997) a Revenue officer (within the meaning of that section) may

disclose to the Bank information in relation to a PEPP which is required by the Bank for the purpose of, or in connection with, the performance by it of its functions under the PEPP Regulation or these Regulations.

(2) Information disclosed to the Bank under paragraph (1) may only be used for the purpose of, or in connection with, the performance by the Bank of its functions under the PEPP Regulation or these Regulations.

*Amendment of Act of 1942*

10. The Act of 1942 is amended—

- (a) in section 2(2A)—
  - (i) in paragraph (bf), by the substitution of “2020;” for “2020.”, and
  - (ii) by the insertion of the following paragraph after paragraph (bf):
    - “(bg) Regulation (EU) No 2019/1238 of the European Parliament and Council of 20 June 2019<sup>3</sup>.”,
- (b) by the insertion of the following section after section 33ANF:

**“Application of Part under PEPP Regulation**

**33ANFA.** (1) This Part applies in relation to the commission or suspected commission by a relevant person of a contravention of —

- (a) a relevant provision,
- (b) any direction given to a relevant person under a relevant provision or Regulation 4 of the Regulations of 2022,
- (c) any direction given under financial services legislation to a relevant person pursuant to a relevant provision,
- (d) any requirement imposed on a relevant person under—
  - (i) a relevant provision,
  - (ii) any direction given to a relevant person under a relevant provision or Regulation 4 of the Regulations of 2022, or
  - (iii) any direction given under financial services legislation to a relevant person pursuant to a relevant provision, or

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<sup>3</sup> OJ No. L. 198, 25.7.2019, p.1.

- (e) any obligation imposed on a relevant person by this Part or imposed by the Bank pursuant to a power exercised under this Part.
- (2) For the purposes of this section—
- (a) a reference in this Part to a regulated financial service provider or a financial service provider includes a reference to a relevant person,
  - (b) a reference in this Part to a prescribed contravention includes a reference to a contravention, by a relevant person, of a relevant provision.
- (3) Nothing in this section limits the application of this Part in relation to matters other than those referred to in subsection (1).
- (4) In this section—
- (a) ‘PEPP Regulation’ means Regulation (EU) No 2019/1238 of the European Parliament and Council of 20 June 2019<sup>4</sup>;
  - (b) ‘Regulations of 2022’ means the European Union (Pan-European Personal Pension Product) Regulations 2022 (S.I. No. 435 of 2022);
  - (c) ‘relevant person’ means an undertaking referred to in point (c) of Article 6(1) of the PEPP Regulation;
  - (d) ‘relevant provision’ means a provision of the PEPP Regulation.”,
- (c) in section 33BC, by the insertion of the following subsection after subsection (18):
- “(19) This section does not apply where Article 69 of Regulation (EU) No 2019/1238 of the European Parliament and Council of 20 June 2019<sup>5</sup> applies.”,
- and
- (d) in Part 2 of Schedule 2, by the insertion of the following item:

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<sup>4</sup> OJ No. L. 198, 25.7.2019, p.1.

<sup>5</sup> OJ No. L. 198, 25.7.2019, p.1.

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GIVEN under my Official Seal,  
28 August, 2022.

PASCHAL DONOHOE,  
Minister for Finance.



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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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