

FAQS ON COUNT OF THE REGISTERED ADMINISTRATORS

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1. What is a registered administrator?

A registered administrator is a person or corporate entity who is registered with the Pensions Authority (the Authority) to provide core administration functions for trustees.

2. Are there prohibitions on certain persons acting as registered administrators?

Certain people cannot act as a registered administrator including un-discharged bankrupts, those convicted of fraud offences, those subject to restrictions under section 150 of the Companies Act 1990 or those who have made a composition or arrangement with their creditors and have not discharged their obligations under that composition or arrangement. Where the applicant is a company with a director to whom the above criteria applies, the company is also prohibited from acting as a registered administrator. In addition, a registered administrator must wait at least 12 months before re-applying for registration if the Authority previously terminated its registration.

3. Does a registered administrator require any qualifications or experience?

While there is no registered administrator qualification at present, you must be satisfied that you are competent and capable of providing the core administration functions in respect of your proposed business activities and have systems and procedures in place to enable you to deliver the services.

4. What are the core administration functions?

The core administration functions are the preparation of annual reports and annual member benefit statements on behalf of the trustees and the maintenance of sufficient records to provide such services and the submission of Annual Scheme Information (ASI) to the Authority.

5, Who must use the services of a registered administrator?

Trustees of a scheme or a trust RAC (other than a small trust RAC) must appoint a registered administrator to carry out the core administration functions.



6. What do the provisions mean for trustees of schemes and trust RACs?

It is an offence for a trustee of a scheme or large trust RAC not to appoint a registered administrator to carry out the core administration functions. A person guilty of this offence shall be liable:

- (a) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding one year, or to both, or
- (b) on conviction on indictment to a fine not exceeding €25,000 or imprisonment for a term not exceeding two years, or to both.

7. I am a trustee, can I appoint myself as a registered administrator?

Yes, provided you are satisfied as to your competence to undertake the core administration functions and have the necessary systems and procedures in place to do so. Where you are so satisfied you can apply to the Authority to be appointed as the registered administrator of your scheme or trust RAC, subject to the prohibitions outlined in question 2 above.

8. I am a trustee of a one-member arrangement. Do I have to appoint a registered administrator?

Yes, for the purposes of preparing an annual member benefit statement and maintaining accurate and sufficient records for that purpose. The registered administrator appointed must also deliver Annual Scheme Information (ASI) to the Authority annually in respect of the scheme. As there is no requirement for a one-member scheme to produce an annual report, the registered administrator will not have to perform the function of preparing annual reports for you.

Are public sector schemes required to appoint a registered administrator?

Section 27(a)(iv)(b) of the 2008 Social Welfare and Pensions Act specifically exempts schemes established otherwise than under a trust from the requirements to appoint a



registered administrator as required under section 54(2) of the Pensions Act, 1990, as amended (the Act).

Please note, it is for each public sector scheme to determine whether their scheme has been set up under trust or not and, as such, whether they are required to appoint a registered administrator. The scheme should seek legal advice if necessary.

10. Are small trust RACs required to appoint a registered administrator?

No, small trust RACs are not required to appoint a registered administrator. Small trust RACs were brought within the ambit of the Act in a minimalist manner in order to comply with the requirements of Directive 2003/41 EC.

11. Does the requirement to appoint a registered administrator apply to frozen schemes and schemes in wind up?

The requirement to appoint a registered administrator applies to frozen schemes that provide core administration functions.

The requirement to appoint a registered administrator applies to schemes in wind up. If a scheme is subject to the RA provisions on any date on or after 1 November 2008 then it is required to appoint a RA for whatever period that may be no matter how short.

12. I have decided to set up in business as a registered administrator. At what stage to I need to register with the Pensions Authority?

You must be registered with the Authority before you commence business.

13. How do I apply for registration as a registered administrator?

To apply for registration as a registered administrator, you must first make an application on the Authority's Pensions Data Register (PDR). To sign up to PDR, go to https://pdr.pensionsauthority.ie, click on 'Sign Up' and then enter your details and create a password. Remember to keep a record of your email address and password after registration as you will need these to login to the PDR once registered.



Your request will then be reviewed and processed by the Authority team. Once processed you will receive a confirmation email, containing a validation link that will allow you to go into the PDR to finalise and submit your application to register as a registered administrator. Guidelines on the RA renewal process is available in the Guidance section of the Authority's website here.

14. Will I have to pay fees when I make an application for registration?

No fees will be payable to the Authority when applying for registration.

15. In what format should I provide details of the schemes/trust RACs for which I propose to provide core administration functions?

Details of the individual schemes for which you provide core functions must be added under the 'Schemes and Trust RACs' page of the electronic form on the Authority's PDR. Alternatively, if many schemes/trust RACs are to be entered, these can be uploaded electronically using a csv format. The format can be downloaded from the 'Help' section of the online portal. File specifications can be found in the Bulk Form Upload Specification pdf.

16. Should RAs include schemes in respect of which they are carrying out core functions and for which they are awaiting a PB number from the Pensions Authority on their list of schemes?

No. This is a statutory form and must be completed fully in order for the Authority to renew a RAs registration. As the renewal form in question requires the applicant to provide details of the PB number, the applicant will not be in a position to fully complete the renewal form. However, in applying to have its registration renewed in the first place, the registered administrator must certify that it will not undertake core administration functions for any scheme or trust RAC unless it is competent, capable and has the necessary administrative systems and procedures in place to do so. Therefore, provided the RA is registered and can make the necessary certifications, it will still be able to carry out the core administration functions for the schemes in question that have no PB number. The RA should update their scheme listing appropriately at the following year's renewal.



17. Upon receipt of the PB number, am I then required to update the Pensions Authority of the schemes in question?

No. It will be sufficient to update your scheme listing at the following year's renewal.

18. Does a registered administrator need to notify the Pensions Authority each time they undertake core administration services for a new scheme during the year?

No, a registered administrator does not need to notify the Authority each time they take on new business during the year. Registered administrators must renew their registration annually with the Authority not later than 30 days before the anniversary of their initial registration or most recent renewal, as the case may be. The Authority must be advised at that point of all schemes, including new schemes set up during the year.

19. Where a company has been registered as an RA, what happens if the person who has certified the registration or renewal of the RA leaves employment?

As the company itself is the RA, this will have no impact on registration/renewal as the certification in question was given by the former employee/officer on behalf of the company. However, the RA should provide updated authorised officer contact details to the Authority as soon as possible.

20. Where a RA takes on a new scheme after initial registration or renewal and loses the business before the next renewal stage, should it appear on the list of schemes at next renewal?

No. The list of schemes to be furnished at renewal time should only contain details of the schemes or trust RACs in respect of which the RA provides core administration functions at the date of the application form.



21. Do I need to renew my registration every year with the Pensions Authority?

Yes, your period of registration only lasts for 12 months from the date of registration. You must apply to renew your registration with the Authority at least 30 days prior to the end of this 12 month period.

22. Do I need to submit a hard copy of my renewal of registration form?

Applications for renewal as a registered administrator must be completed through the Authority's Pensions Data Register (PDR). However, the signed form may be submitted either as a hard copy or alternatively, the form may be signed, scanned and submitted electronically to the Authority in pdf format. How you chose to submit the signed form is a matter for each RA.

23. Can I certify the registration or renewal of registration in my company's name?

No. If the applicant for registration or renewal is a body corporate, the form must be completed and signed by a director, manager or officer who has been authorised by the company.

24. Can I continue to carry out core administration functions for schemes that are not on the list of schemes submitted to the Pensions Authority in my renewal application form?

Yes, provided you have the necessary competences to do so. In applying to have its registration renewed in the first place, a registered administrator must certify that it will not undertake core administration functions for any scheme or trust RAC unless it is competent, capable and has the necessary administrative systems and procedures in place to do so. Therefore, provided the RA can make the necessary certifications, it will still be able to carry out the core administration functions for such schemes.

25. Are we prohibited from carrying out core functions post our registration expiration date until we receive written confirmation



from the Pensions Authority that our registration has been renewed?

No. RAs should continue to carry out core functions following the date on which their registration as RA is due to expire. However, if they receive a written notice from the Authority that their renewal has been rejected or renewed subject to conditions, they will be required to comply with the relevant statutory requirements.

26. Can we expect to receive confirmation of the status of our renewal from the Pensions Authority?

Yes, the Authority will notify you in writing of its decision as soon as it is practicable for it to do so.

27. What happens if I forget to renew my registration with the Pensions Authority?

The Authority may consider a late application but will only do so in exceptional cases.

28. What happens if I am late in renewing my application and the Pensions Authority rejects the late application?

In such a case you would no longer be entitled to provide core administration functions to trustees.

29. Am I obliged to take any action if my registration with the Pensions Authority is made conditional, terminated or not renewed?

Yes, you must immediately give the details to the trustees of the scheme or trust RAC that you are providing registered administrator services to. If your registration is terminated or not renewed, you must arrange for the transfer of all information in relation to the scheme or trust RAC to the new registered administrator nominated by the trustees within two months.

30. What action will the Pensions Authority take if my registration is made conditional, terminated or not renewed?



The Authority will publish this information in Iris Oifigiuil and in a national newspaper within 28 days of the decision taking effect.

31. Can I appeal the Pensions Authority's decision to terminate or refuse to renew my registration?

Yes, you may appeal the Authority's decision to the High Court but you must appeal within 21 days (in exceptional circumstances a court may allow you longer).

32. If I do appeal the decision of the Pensions Authority, will the Pensions Authority publish its decision to terminate or refuse to renew my registration pending the outcome of the appeal?

No, provided that an appeal is lodged within 21 days from the date of the notification by the Authority, the decision will not take effect until after the High Court has determined the matter.

33. What are the consequences if I carry out core administration functions for a scheme or trust RAC where I have not registered with the Pensions Authority as a registered administrator?

You may be prosecuted by the Authority for an offence. A person guilty of this offence shall be liable:

- (i) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding one year, or to both, or
- (ii) on conviction on indictment to a fine not exceeding €25,000 or imprisonment for a term not exceeding two years, or to both.

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34. What are the duties of an administrator who has registered with the Pensions Authority to perform core administration functions?

In respect of each scheme and/or large trust RAC for which you act your duties will generally be:

- (i) to prepare the annual report in the prescribed form for signature by the trustees and to deliver it to the trustees within eight months of the scheme year end;
- (ii) to prepare the annual member benefit statements and deliver them to the trustees at least one month prior to the date by which the trustees are required to issue them to members (it should be noted that the statement of reasonable projection is part of the annual member benefit statement requirements for defined contribution schemes);
- (iii) to submit Annual Scheme Information (ASI) to the Authority annually.

You must keep accurate and sufficient records of members and their entitlements to enable you to discharge the duties set out at (ii), (ii) and (iii) above.

35. What happens if I fail to perform the core administration services for which I have been appointed a registered administrator including the provision of submitting annual scheme information to the Pensions Authority?

You may be prosecuted by the Authority for an offence. A person guilty of this offence shall be liable:

- (a) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding one year, or to both, or
- (b) or conviction on indictment to a fine not exceeding €25,000 or imprisonment for a term not exceeding two years, or to both.

Alternatively, or in addition, the Authority may decide not to renew your registration or to renew it subject to conditions, such as a restriction on you taking on new business.



36. Do on-the-spot fines apply to registered administrators?

37. Can I be appointed registered administrator in respect of one core administration function without being registered. functions?

Separate registered administrators can be appointed for the purposes of performing either (i) the preparation of the annual report or (ii) the preparation of the annual benefit statement as set out in the response to question 34. In each case, the registered administrator must maintain adequate records to discharge the function for which they have been appointed.

38. What happens if in my capacity as a registered administrator I outsource the provision of the core administration functions to a third party?

You will continue to be responsible for performing the core administration functions and any failure by your outsourcee will be attributed to you and may result in you being liable for an offence. The possible sanctions for which are set out in question 35.

39. Is it in order for a third-party service provider to perform the core administration functions for a scheme but require the trustees to formally register as an RA with the Pensions Authority and report the third party as an outsourcee?

RAs are permitted to enter into outsourcing arrangements under the Act. However, if the RA has, or intends to enter into, an outsourcing arrangement with another person or body that will provide any of the core administration functions, it should be noted that the RA remains liable for the performance of the core administration functions even where these have been outsourced.

t has come to the Authority's attention that certain third-party service providers are de facto carrying out the core administration functions for various schemes. However, the Authority understands that such third-party service providers are being reported to the Authority as an outsourcee and the scheme trustees are formally being registered with the Authority as the scheme's RA. It is not clear in all cases if the scheme trustees have



the necessary competences and experience in the first place to be registered as the scheme's RA.

The Authority would seek to remind all RAs and any current or potential outsourcees that in order to be registered as an RA in the first place, the applicant RA must certify that it is competent and capable to provide the core administration functions and that it has adequate administrative systems and procedures in place to do so. It is only when the applicant RA itself can satisfy these requirements that it will be in a position to enter into an outsourcing arrangement. Therefore, if the trustees cannot make the above certification, it must appoint an RA who can. It is not sufficient for the trustees to register with the Authority as an RA and outsource the performance of the core administration functions to a third party. Rather, the trustees must ensure that the third-party service provider (assuming they have the necessary competences) is formally registered as the scheme's RA.

Following on from the above, the Authority would emphasise to any third-party service provider who is or may become an outsourcee of the RA to ensure that their clients are fully informed of the relevant statutory requirements concerning RA registration. The Authority will be actively monitoring such schemes where they become aware that the above practice has occurred, and this may involve an investigation into the activities of the designated outsourcee.

40. Do I as a registered administrator have a defence available to me where my breach of obligation to perform the core administration functions is attributable to another person apart from my outsourcee?

Yes, the registered administrator can rely on the defence which is currently available to trustees in those circumstances. In a prosecution it would be a defence for the registered administrator to prove that the contravention to which the offence related was attributable to a failure by another person (e.g. an actuary or an auditor) and that the registered administrator took all reasonable steps to ensure compliance by that person.

41. We are a multi-national company and appoint overseas administrators to carry out the core administration functions in



respect of our Irish schemes. Can we continue to use overseas administrators?

Yes, but your overseas administrator must register with the Authority as a registered administrator. It must also provide an address in the state to the Authority for the service of notices and proceedings although it can continue to operate its business outside Ireland. Any offences committed by the overseas administrator are deemed to be committed in the state.

42. Is a written service level agreement between the trustees and the registered administrator compulsory?

No, but it is recommended as good practice.

43. Do trustees continue to have duties with respect to annual reports and annual member benefit statements where they have appointed a registered administrator?

Yes. Trustees retain their current duties under the Act to provide the annual report and annual member benefit statements. Where a breach occurs and where the trustees can show that their failure was caused by breaches by the registered administrator of its responsibilities under the Act and that they had taken reasonable steps to secure compliance by the registered administrator with the core administration functions, the trustees will be able to rely on a defence in those circumstances. In order to fulfil the requirement of taking reasonable steps there remains a practical obligation on the trustees to actively pursue the timely production of the annual report and annual member benefit statements, as well as the filing of the Annual Scheme Information (ASI) by the registered administrator. Trustees may contact the Authority if they experience issues or delays with registered administrators which impacts on their ability to fulfil their statutory obligations.



44. What is the position where certain life offices/providers will not register as an RA for certain schemes although they hold the relevant scheme data?

Under the Act, the trustees are legally responsible for ensuring that the core administration functions are carried out and to appoint a registered administrator for that purpose. Further, the Act requires that the core administration functions cannot be carried out by a person unless that person has been formally registered with the Authority as an RA.

The Act does not impose a mandatory obligation on any party involved with the scheme, such as a life office, to act as an RA involuntarily. This is the position even though the life office may hold some or all of the necessary information to carry out the core administration functions in relation to the scheme.

Failure by scheme trustees to appoint an RA to carry out the core administration functions is an offence. The Act is clear. If the life office/provider will not agree to act as RA and the trustees are unable to act as RA in their own right, the trustees must look elsewhere to source the required services. In certain cases, this may result in the trustees having to switch service providers.

45. Does the legislation require physical delivery of the annual member benefit statements to the trustees by the registered administrators?

No, as an alternative to physical delivery of the annual member benefit statements to the trustees, delivery can also be effected by the registered administrator sending a letter of certification to the trustees certifying that the registered administrator has prepared the annual member benefit statements not later than one month prior to the date that they are required to be issued to members and that the registered administrator will ensure their provision to members on behalf of the trustees within one month.

The trustees of a scheme to which my firm act as RA have requested that we send the annual member benefit statements to a third party who in turn will deliver them to the trustees or members of the scheme; is this acceptable?



Yes, but the following procedure must be followed:

The fact that the RA is sending the annual member benefit statements to the third party who in turn will deliver them to the trustees or members of a scheme must be formally agreed and documented between the trustees and the RA. You should also ensure that any sharing of personal data is in accordance with data protection legislation.

On an annual basis, upon delivery of the annual member benefit statements to the third party, the RA must send a letter of certification to the trustees certifying that, as the registered administrator, it has prepared the annual member benefit statements and delivered them to the third party, as requested by the trustees, not later than one month prior to the date that they are required to be issued to members. It is the trustees' responsibility to then ensure that the annual member benefit statements are issued to members within the required statutory timeframe.

47. What is the registered administrator's role with regard to preparing those aspects of the annual report which require third party input (e.g. the audited accounts and actuarial statement)?

We expect the registered administrator to interact with the scheme auditor and actuary and to deliver the trustees an annual report which includes the unsigned but otherwise final version of the audited accounts and the actuarial statement. The trustees are then responsible for signing off on the annual report and audited accounts and obtaining the auditor's signature to the 'audited accounts' and making the annual report available within nine months of the scheme year end.

Where the registered administrator fails to deliver the annual report to the trustees within eight months of the scheme year end (to include 'audited accounts' completed to a stage where they can be signed by the auditor and the trustees and the actuarial statement), the registered administrator will be in breach of its duty, unless it can rely on the section 3(1)(c) defence, by showing it took all reasonable steps to obtain compliance by the other parties with their responsibilities (e.g. trustees with regard to the provision of renewal data/auditor with regard to auditing the accounts/actuary with regard to actuarial statement) and its failure was attributable to them.

The courts have found that in order for a defendant to rely on the defence in section 3(1)(c), he/she must be able to show he/she actively pursued the production of the various documents in question over a significant period of time. The registered administrator must



be able to adduce satisfactory evidence of its sustained efforts to obtain the necessary information from third parties to allow it to perform its duties.

48. The Act requires registered administrators to keep accurate and sufficient records of members and of their entitlements to perform the core administration functions. What happens if the data provided by third parties to the registered administrator is inaccurate?

It is appreciated that registered administrators are largely dependent on others for receipt of accurate and sufficient data to prepare the annual reports and annual member benefit statements. Registered administrators are expected nonetheless to make reasonable efforts to ensure that the data they are using is accurate and up to date by making sure they have requested (and followed up that request if not responded to) the most up to date data from the employer/trustee or other party as appropriate. It is anticipated that where a registered administrator takes over the role of a previous registered administrator it will meet and correspond with the trustees, employer, scheme auditors and other relevant third parties to clarify that the information which has been passed to it by the previous registered administrator is up to date and accurate.

49. Where can I find details of what is required when providing annual scheme information to the Pensions Authority?

Details of what is required when providing annual scheme information is available on the 'Help' section of the Authority's Pensions Data Register (PDR) when you are signed in as a registered administrator.



50. Where two registered administrators have been appointed, will the annual scheme information being furnished to the Pensions Authority not be duplicated?

No. Where there is more than one registered administrator appointed to a scheme of trust RAC, the registered administrator who is responsible for preparing the annual report is the registered administrator who must furnish the annual scheme information to the Authority.

51. What does the term 'multiple RAs' refer to?

This refers to circumstances where the trustees of the scheme have appointed more than one RA to carry out a single core function. This will only arise where the trustees used the services of two or more RAs prior to 1 November 2008 to carry out a particular core function under an arrangement that would continue beyond that date. However, post 1 November 2008, only one RA per core function is permitted.

52. Does the reference to multiple RAs on the electronic registration/ renewal form require me to indicate where the trustees have appointed different RAs in respect of each specific core function?

No. The reference to multiple RAS relates to where there may be one or more RA in respect of a single <u>core</u> function only. Where an RA is only carrying out one core function, they are not required to detail where the trustees have appointed another RA in respect of the other core function.

53. Is it permissible for trustees to appoint multiple RAs on an ongoing basis?

No. The Act prohibits trustees from appointing more than one RA per core function <u>unless</u> the trustees appointed more than one administrator to perform a particular core function prior to 1 November 2008 under an arrangement that would continue beyond that date.

However, different RAs may be appointed to perform different core functions (see the response to question 37 above).



54. Why is it possible for trustees of schemes that had multiple RAs in place prior to 1 November 2008 to continue this arrangement while the trustees of new schemes or arrangements are prohibited from having multiple RAs in respect of a single core function?

The Act requires that there should only be one RA per core function. However, where the trustees used the services of two or more RAs prior to 1 November 2008 to carry out a particular core function under an arrangement that would continue beyond that date, the Authority has discretion to allow the existing arrangement to continue. The Authority has adopted the position that pre-existing arrangements which had two or more RAs in place prior to 1 November 2008 would be allowed to continue. However, post 1 November 2008, only one RA per core function is permitted. The intention behind this requirement is to ensure that going forward there is only one RA in respect of a single core function so that the RA responsible for this core function is clearly identifiable. The continuation of pre 1 November 2008 arrangements were permitted in order to avoid trustees and administrators having to alter pre-existing administrative arrangements.

55. If one RA registered as a multiple RA in respect of a particular core function prior to 1 November 2008 but the other RA did not register, is it now too late for the other RA to register as a multiple RA for this scheme?

No. Provided the said other RA was carrying out the core function for the trustees prior to 1 November 2008 under an arrangement that would continue beyond that date, they may continue to act as an RA in respect of that scheme for the core function in question. The fact that they failed to register as a multiple RA in the first place will not allow them to avoid responsibility as an RA for that scheme in respect of the particular core function. However, they would be expected to update their renewal form appropriately. Please note that it will be a matter for the trustees and the RA's respectively to determine as to whether or not there was an arrangement in place prior to 1 November 2008 whereby the administrator in question carried out the particular core function.



56. As trustees, we have for the past number of years engaged more than one company to provide a particular core administration service for our scheme. Can we continue to retain the two administrators for the provision of one core administration function post 1 November 2008, or do we have to terminate the appointment of one of these administrators?

Where prior to 1 November 2008 the scheme trustees had annual member benefit statements prepared by more than one administrator, the Authority will allow this arrangement to continue, but it must be clearly explained in the respective RA applications by the administration firms. No new arrangements of this type may be put in place.

57. Why do I as a registered administrator have to give 90 days' notice if I decide to terminate my agreement to provide core administration functions to trustees?

Both the registered administrator and the trustee are obliged to give 90 days' notice if they decide to terminate the contract providing administration services. If this was not the case trustees could be left in a position where they do not have enough time to find an alternative registered administrator to enable the trustees to fulfil their statutory obligations.

58. There is a reference in section 64G(3) to a contract for the performance of the core administration functions between trustees and a registered administrator not being capable of termination by less than 90 days' prior written notice. What does the reference to the word contract mean?

The contract reference is to the arrangement between the trustees and the registered administrator under which the trustees have appointed the registered administrator to carry out the core administration functions. The legislation requires that the arrangement between the trustees and the registered administrator (in whatever form it takes - oral, in writing or based on customary practice), should require at least 90 days' notice of termination by either party. This is to enable the trustees to have time to make alternative arrangements and to avoid the risk of a registered administrator resigning just before the



due date for performance of its core administration functions to the trustees. Similarly the registered administrator is to be afforded notice by the trustees that its services are no longer required.

59. What type of information can the Pensions Authority request from me when auditing my activities as a registered administrator?

The Authority has the power to require you to furnish it with such information, explanations, books of account and other documents as the Authority considers necessary and can require this information on a scheme specific basis or generally with respect to your activities as a registered administrator.

60. Will the Pensions Authority exercise any other audit functions in relation to registered administrators?

Yes, the Authority will carry out on-site inspections of your premises from time to time. Registered administrators must also ensure in their agreement with outsourcees that the Authority is permitted to inspect any outsourcee's premises. There are reports on inspections of registered administrators for previous years available on the Authority's website.

61. Who can view the Pensions Authority's register of registered administrators and what information will be on it?

The register is available online to the public <u>here</u>. It contains the names and addresses of all persons registered with the Authority as registered administrators.

62. When will the prohibition on bundling registered administration services with the sale of pension products to the trustees become operative?

A decision on the timing of the commencement of this section has not been made.