

# Guidance note on pension transfers outside the State

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## **Introduction**

Some occupational pension scheme members and personal retirement savings account (PRSA) contributors request transfers of their pension savings to arrangements established outside the State. The purpose of this guidance note is to:

- make members and contributors aware of some of the potential risks they should consider before making such a transfer, and
- outline for trustees and PRSA providers the circumstances in which a member or contributor is allowed to make such a transfer.

## **For members/PRSA contributors**

### **Considerations before transferring**

Transferring your pension savings to an arrangement in an overseas jurisdiction is not without potential risks. Some of the risks you should consider before making such a decision include:

- uncertainty of taxation consequences,
- potentially higher and non-transparent costs,
- dealing with unregulated intermediaries,
- difficulty obtaining legal redress should it become necessary, and
- no longer having the protection of Irish regulation.

It is important that you obtain independent financial advice before making any decision to transfer your pension savings overseas and that you are fully aware of the potential risks involved. You should also talk to your scheme trustees or PRSA provider.

## **For trustees/PRSA providers**

### **Conditions for transfer to arrangements established outside the State**

Section 34 of the Pensions Act 1990, as amended (the Act), deals with entitlement to a transfer payment, applying to a member of a funded scheme who is entitled to a preserved benefit. Section 124(2) of the Act deals with transfers of benefits from PRSAs.

The Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas Transfer Payments) Regulations, 2003 (the Regulations), prescribe the conditions for transfers to arrangements established outside the State. These are that:

- the trustees or PRSA provider have satisfied themselves that the retirement benefits to be provided under the overseas arrangement are relevant benefits (within the meaning of section 770(1) of the Taxes Consolidation Act 1997) by obtaining written confirmation to that effect from the trustees, custodians, managers or administrators of an overseas arrangement to which the transfer is to be made, and
- the trustees or PRSA provider have satisfied themselves that the overseas arrangement has been approved by an appropriate regulatory authority for the country concerned.

## **Revenue requirements**

Prior to making any overseas transfer payments, the trustees or PRSA provider must be satisfied that:

- (a) the scheme member or PRSA contributor has requested a transfer,
- (b) the overseas arrangement provides relevant benefits (as defined), and
- (c) the overseas arrangement has been approved by the appropriate regulatory authority in the country concerned.

To comply with (b) and (c) above, the trustees should obtain written confirmation from the administrator of the overseas arrangement concerned.

If the transfer is to another European Union (EU) Member State, the overseas scheme must be operated or managed by an institution for occupational retirement provision (IORP), within the meaning of the EU pensions Directive, and must be established in a Member State which has implemented the EU pensions Directive in its national law. The scheme administrator must also be resident in a Member State.

If the transfer is to a country outside Europe, a transfer is not permitted to a country other than the one in which the member is currently employed.

All transfer payments to an arrangement for the provision of retirement benefits outside the State made from an approved occupational pension scheme or PRSA under the provisions of the Regulations may be made to facilitate bona fide transactions only.

A member of an occupational pension scheme or a PRSA contributor who directs the trustees/PRSA provider to transfer assets to an overseas arrangement shall, before the transfer, sign a declaration to the effect that:

- the transfer conforms to the requirements of the Regulations and Revenue transfer rules, and
- it is for bona fide reasons and is not primarily for the purpose of circumventing pension tax legislation and Revenue pension rules and conditions.

Transfers that comply with all of the above requirements may be made without prior Revenue approval. Further information is available in the [Revenue Pensions Manual](#).