

GN31(ROI): ANNUAL CERTIFICATION OF PERSONAL RETIREMENT SAVINGS ACCOUNTS PROVIDERS

Classification

Practice Standard

Legislation or Authority

Pensions Act, 1990 as amended (“The Pensions Act”).

Personal Retirement Savings Accounts (Disclosure) Regulations, 2002 as amended (“The PRSA Disclosure Regulations”).

Personal Retirement Savings Accounts (Operational Requirements) Regulations, 2002 as amended (“The PRSA Operational Regulations”).

Personal Retirement Savings Account (Fees) Regulations 2002 (“The PRSA Fees Regulations”)

Application

Any actuary who has been appointed as a PRSA Actuary as defined in the Pensions Act, and is preparing a determination and certificate as required under section 119 of the Pensions Act.

Version	Effective from
1.0	14.01.2004

1 INTRODUCTION

- 1.1 Section 119(1) of the Pensions Act requires the PRSA Actuary to make an annual determination of the extent to which the PRSA provider has complied with Part X of the Pensions Act and regulations made thereunder (the “Determination”).

Section 119(2) of the Act requires the PRSA Actuary to certify if the charges levied on PRSAs complied with the Act and regulations (the “Certificate”).

- 1.2 Article 9 of the PRSA Operational Regulations requires that the Determination and a declaration furnished by the PRSA provider to the PRSA Actuary shall both be prepared annually.

The Determination is required to state *“if such be the case, that the advice given by the PRSA actuary and any guidance notes issued by the Society of Actuaries in Ireland pursuant to the provisions of the Act and regulations made under the Act have been complied with by the PRSA provider subject to any qualifications, amplifications or explanations in relation to that advice as the PRSA actuary considers appropriate”*.

The PRSA provider’s declaration is required to state *“if such be the case, that all information requested by the PRSA actuary for the purpose of making his determination in accordance with sub-article (1) has been provided to the PRSA actuary and is accurate”* and the PRSA provider is required to include in the declaration *“such qualifications, amplifications or explanations as the PRSA provider considers appropriate”*.

The initial Determination must be provided within two months of the 31st day of December immediately following the first date of approval of a PRSA product of the PRSA provider or the 31st day of December in the next following year if that falls within eighteen months of the first date of approval.

The Determination forms part of the annual report of the provider to the Pensions Board, which must be delivered to the Board within one month of the Determination.

- 1.3 Section 119(3) of the Pensions Act specifies that, in making a determination under Section 119 of the Pensions Act, in preparing a certificate under Section 119 of the Pensions Act or in signing a certificate required under Section 94(1)(b) of the Pensions Act, a PRSA Actuary must comply with any applicable professional guidance issued by the Society of Actuaries in Ireland for that purpose.

This Guidance Note constitutes the guidance issued by the Society of Actuaries in Ireland referred to in Section 119(3) of the Pensions Act.

- 1.4 “The PRSA actuary” is defined as “*a person who is employed by a PRSA provider or has entered into a contractual arrangement with a PRSA provider to provide actuarial services in respect of a PRSA product or products and who complies with such requirements for such employment or such appointment as such an actuary as the Minister may determine from time to time and specifies in regulations*”.

2. PURPOSE OF THE GUIDANCE

The annual Determination and Certificate will be relied on by the Pensions Board to assess the level of compliance of the PRSA provider and to assess whether further investigation by the Board is necessary. The purpose of the guidance is to specify and set out the extent of PRSA Actuary’s responsibilities in preparing the Determination and Certificate and, in some areas, to specify the minimum levels of investigation required.

3. INFORMATION

- 3.1 The PRSA Operational Regulations require that the PRSA provider declares whether or not it has furnished accurately the information requested by the PRSA Actuary for the purposes of making the Determination. The PRSA Actuary is entitled to rely on the accuracy of this information unless there are clear reasons to assume otherwise.
- 3.2 It is the PRSA Actuary’s responsibility to state clearly to the PRSA provider the information required to prepare the Determination and Certificate. This request should normally be made in writing. The request must be provided in good time, and requests for additional information must be made as soon as is practical.
- 3.3 The information required to prepare the Determination includes all information required to prepare the Certificate.

4. DETERMINATION

- 4.1 The extent of the annual Determination is set out in section 119(1) of the Pensions Act and Article 9(1) of the PRSA Operational Regulations. The PRSA Actuary is required to set out the extent to which the provider has complied with Part X of the Pensions Act and regulations made thereunder. The Determination cannot be limited to particular aspects of compliance.

- 4.2 The Actuary is not required to include in the Determination obligations of the PRSA provider arising from legislation or regulation other than Part X of the Pensions Act and regulations made thereunder. Examples of such obligations are those imposed by the Irish Financial Services Regulatory Authority on the sales of PRSAs, or requirements imposed by the Revenue Commissioners in order to qualify for tax relief.
- 4.3 It is the responsibility of the PRSA Actuary to determine the extent of the PRSA provider's compliance with the Pensions Act and regulations made thereunder. Responsibility for such compliance rests with the directors of the PRSA provider.
- 4.4 The PRSA Actuary must maintain adequate records to demonstrate the extent of the investigations undertaken for the Determination.
- 4.5 The PRSA Actuary must investigate compliance with all aspects of the PRSA business. It is a matter for the professional judgement of the PRSA Actuary to determine the depth of investigation appropriate for each aspect of the PRSA provider's compliance. However, the PRSA Actuary must specifically consider the following issues:

Provider reporting and licence fee

- 4.5.1 The relevant sections of the Pensions Act relating to provider reporting and annual fee are Sections 99, 117(5) and 117(6). The requirements in this regard are expanded on in the PRSA Operational Regulations and PRSA Fee Regulations. The PRSA Actuary must be satisfied that the three monthly reports and returns and the annual reports have been prepared and submitted to the Pensions Board on time. The PRSA Actuary should satisfy himself or herself as to the checks performed regarding the accuracy of the reports. The PRSA Actuary must check that the annual fee has been paid as due and is consistent with the periodic reports.

Product and Remuneration Disclosure

- 4.5.2 The relevant sections of the Pensions Act relating to product and remuneration disclosure are Sections 111 to 116 inclusive. The requirements in this regard are expanded on in the PRSA Disclosure Regulations.
- 4.5.3 The PRSA Disclosure Regulations stipulate that Preliminary Disclosure Certificates and Statements of Reasonable Projection shall be prepared by the PRSA provider in accordance with, inter alia, the advice of the PRSA Actuary and any guidance notes issued by the Society of Actuaries in Ireland for those purposes. The relevant guidance notes issued by the Society of Actuaries in Ireland are GN31A(ROI) and GN31B(ROI).

The PRSA Actuary should therefore verify that the PRSA provider has complied with the provisions of GN31A(ROI) and GN31B(ROI), any advice given by the PRSA Actuary to the PRSA provider and all relevant provisions of the Pensions Act and the PRSA Disclosure Regulations.

- 4.5.4 The PRSA Actuary must be satisfied that the Preliminary Disclosure Certificates and Statements of Reasonable Projection are in the form prescribed in the Pensions Act and the PRSA Disclosure Regulations. The PRSA Actuary must be satisfied that reasonable arrangements are in place to ensure that the calculations are performed accurately and in accordance with the relevant guidance and regulations, and to ensure that the required documents have been provided to contributors as required.

Investment

- 4.5.5 The relevant section of the Pensions Act relating to investment is Section 103. The requirements in this regard are expanded on in the PRSA Operational Regulations.

The effect of Article 7 of the PRSA Operational Regulations is that a default investment strategy must be determined in accordance with the provisions of GN31C(ROI).

The PRSA Actuary should therefore verify that the PRSA provider has complied with the provisions of GN31C(ROI) and all relevant provisions of the Pensions Act and the PRSA Operational Regulations.

- 4.5.6 For each approved PRSA product, the PRSA Actuary must be satisfied that adequate arrangements are in place to monitor the default investment strategy.
- 4.5.7 The PRSA Actuary should be satisfied that the investment of standard PRSA contributions and all default investment strategy contributions comply with the requirements of Section 103(3) of the Pensions Act.

Transfers from occupational pension schemes

- 4.5.8 The relevant section of the Pensions Act relating to transfers from occupational schemes is Section 113. The requirements in this regard are expanded on in the PRSA Disclosure Regulations.

The PRSA Disclosure Regulations stipulate that Certificates and Statements issued pursuant to Section 113(1) of the Pensions Act shall be prepared in accordance with, inter alia, the advice of the PRSA Actuary and any guidance notes issued by the Society of Actuaries in Ireland for those purposes. The relevant guidance note issued by the Society of Actuaries in Ireland is GN31D(ROI).

The PRSA Actuary should therefore verify that the PRSA provider has complied with the provisions of GN31D(ROI), any advice given by the PRSA Actuary to the PRSA provider and all relevant provisions of the Pensions Act and the PRSA Disclosure Regulations.

Contract provisions

- 4.5.9 The relevant sections of the Pensions Act relating to contract provisions are Sections 100, 101, 104, 105, 106, 107, 108 and 109.

It is possible that the PRSA Actuary preparing the Determination may not be the actuary who signed the certificate required under section 94(1)(b) for product approval. If this is the case, the PRSA Actuary may rely on this certificate as evidence that the contract provisions of the PRSA products comply with requirements of the Pensions Act and regulations, unless there are clear reasons to assume otherwise.

Charges and deductions

- 4.5.10 The Determination includes all compliance by the provider with the Pensions Act and regulations, including those matters covered by the Certificate required under Section 94(1)(b).

Marketing and sales documents

- 4.5.10 The PRSA Actuary should be satisfied that the marketing and sales documents of the PRSA provider relating to PRSA business comply with the requirements of Section 110 of the

Pensions Act.

Other issues

4.5.11 In making the Determination, the PRSA Actuary is determining the level of compliance with all the requirements of Part X of the Pensions Act. The PRSA Actuary will therefore need to be familiar with those requirements, and, in making the Determination, will need to consider any other issues that may particularly relate to the PRSA provider.

4.6 Where the Actuary is satisfied that the provider has been compliant, the Determination must be accompanied by a statement in the form shown in the Appendix. Where the provider has not been compliant, the Determination must include such statement in respect of those areas where the provider was compliant, and must include details of the non-compliance.

5. CERTIFICATE

5.1 The form of the Certificate is specified in Schedule D of the PRSA Operational Regulations.

5.2 It is possible that the PRSA Actuary preparing the Certificate may not be the actuary who signed the certificate required under section 94(1)(b) for product approval. If this is the case, the PRSA Actuary may rely on this certificate as evidence that the contractual deductions under the PRSA comply with requirements of the Pensions Act and regulations, unless there are clear reasons to assume otherwise.

5.3 Where the PRSA Actuary cannot sign the statements in the Certificate, he or she should inform the Pensions Board. The reasons why should be explained in the Determination.

Appendix

Determination of PRSA actuary under Section 119(1) of the Pensions Act, 1990

Name and address of PRSA provider:

Calendar year ended:

Name and address of PRSA actuary:

I hereby certify, in respect of the above calendar year, that, in my opinion and based on the information supplied to me by the PRSA provider pursuant to the provisions of Article 9(2) of Personal Retirement Savings Accounts (Operational Requirements) Regulations, 2002 as amended:

- (a) except for minor instances of non-compliance (as set out in the attached schedule), no instances of non-compliance of a material nature have occurred, and the PRSA provider's PRSA business has been carried out in accordance with the requirements of Part X of the Pensions Act, 1990 and regulations made thereunder; and
- (b) the advice given by me and all guidance notes issued by the Society of Actuaries in Ireland pursuant to the provisions of Part X of the Pensions Act, 1990 and regulations made thereunder have been complied with by the PRSA provider.

I also certify that, in making this determination in respect of the above calendar year, I have complied with all professional guidance issued by the Society of Actuaries in Ireland for that purpose.

Signed

Name of PRSA actuary

Date