

# GN31B(ROI): PERSONAL RETIREMENT SAVINGS ACCOUNTS REMUNERATION INFORMATION

## 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”).

## Application

PRSA Actuary or any actuary called upon to advise a PRSA provider on the provision of remuneration information pursuant to the PRSA Disclosure Regulations (hereinafter referred to as the ‘Actuary’).

Version	Effective from
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1.0	04.09.2003
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## 1 Introduction

1.1 This Guidance Note is issued pursuant to the PRSA Disclosure Regulations and the PRSA Operational Regulations, and, in particular, to Articles 3(3) and 4(2) of the PRSA Disclosure Regulations and to Article 9 of the PRSA Operational Regulations.

1.2 Article 3(3) of the PRSA Disclosure Regulations stipulates that:

*“A Preliminary Disclosure Certificate shall be prepared by the PRSA provider in accordance with -*

- (a) Schedule B,*
- (b) the advice of the PRSA Actuary, and*
- (c) any guidance notes issued by the Society of Actuaries in Ireland for those purposes.”*

Article 4(2) of the PRSA Disclosure Regulations stipulates that:

*“A Statement of Reasonable Projection shall be prepared by the PRSA provider in accordance with -*

- (a) Schedule B,*
- (b) the advice of the PRSA Actuary, and*
- (c) any guidance notes issued by the Society of Actuaries in Ireland for those purposes.”*

1.3 (i) “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.”*

(ii) “Intermediary remuneration” is defined in the PRSA Disclosure Regulations as:

*“(a) the cost of payments, benefits and services paid or provided by a PRSA provider or connected persons of the PRSA provider to an intermediary or connected persons of the intermediary, and*

*(b) in the case of an intermediary who is a connected person of the PRSA provider, an amount in respect of a notional profit margin sufficient to achieve comparability in the total amount of intermediary remuneration in respect of that PRSA contract with an intermediary who is not a connected person of that PRSA provider.”*

(iii) “Sales remuneration” is defined in the PRSA Disclosure Regulations as:

*“(a) the cost of remuneration and other payments, benefits and services equivalent to intermediary remuneration, paid or provided by a PRSA provider or connected persons of the PRSA provider to a sales employee of the PRSA provider or connected persons of the sales employee in connection with a PRSA contract sold to a contributor, and*

*(b) an amount in respect of a notional profit margin sufficient to achieve comparability in the total amount of sales remuneration in respect of that PRSA contract with the intermediary remuneration which would have been payable in respect of that PRSA contract to an intermediary who is not a connected person of the PRSA provider.”*

1.4 Article 9 of the PRSA Operational Regulations requires that a determination made by the Actuary pursuant to Section 119(1) of the Pensions Act and a declaration furnished by the PRSA provider to the Actuary shall both be submitted to the Pensions Board within two months of the end of each financial year.

The Actuary’s 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”*.

1.5 While the intermediary remuneration and sales remuneration which are illustrated in the provision of remuneration information are ultimately the responsibility of the PRSA provider, the PRSA Disclosure Regulations require a PRSA provider to have regard to any guidance notes issued by the Society of Actuaries in Ireland, as well as requiring consultation with the Actuary.

This Guidance Note constitutes the guidance relating to Preliminary Disclosure Certificates and Statements of Reasonable Projection issued by the Society of Actuaries in Ireland referred to in the PRSA Disclosure Regulations.

This Guidance Note also applies to any Actuary providing advice to a PRSA provider pursuant to the PRSA Disclosure Regulations.

- 1.6 The PRSA Disclosure Regulations require that the Illustrative Table of Intermediary Remuneration and Sales Remuneration should state, for each contribution year, the projected contribution payable and the projected remuneration payable to intermediaries or sales employees in the contribution year in question. This is to be interpreted as requiring that the actual remuneration provided in the contribution year should be shown in the relevant row of the Illustrative Table of Intermediary Remuneration and Sales Remuneration for each year for which remuneration is illustrated.
- 1.7 Where the figures between quinquennial durations in force in the Illustrative Table of Intermediary Remuneration and Sales Remuneration do not change at a steady rate, the values for all the intervening years should be given.
- 1.8 The PRSA Disclosure Regulations specify that the cost of payments, benefits and services paid or provided by connected persons of a PRSA provider must be treated as if they were payments, benefits or services paid or provided by the PRSA provider, and that the cost of payments, benefits and services paid or provided to connected persons of an intermediary or sales employee must be treated as if they were payments, benefits or services paid or provided to the intermediary or sales employee. "Connected person" is defined in Article 2(2) of the PRSA Disclosure Regulations and is extremely wide in scope, and the Actuary should ensure that he or she is familiar with this definition. Throughout this Guidance Note, references to the cost of payments, benefits and services paid or provided by a PRSA provider are deemed to include the cost of payments, benefits and services paid or provided by connected persons of the PRSA provider, and references to the cost of payments, benefits and services paid or provided to an intermediary or sales employee are deemed to include the cost of payments, benefits and services paid or provided to connected persons of the intermediary or sales employee.
- 1.9 If the Actuary believes that information in addition to that provided in the Illustrative Table of Intermediary Remuneration and Sales Remuneration is needed to ensure that the provision of remuneration information is fair, clear and not misleading, then the Actuary should advise the PRSA provider as to what additional information should be disclosed. For this purpose, the Illustrative Table of Intermediary Remuneration and Sales Remuneration and any explanatory notes attaching thereto should be modified, amended or augmented as necessary.
- 1.10 The PRSA Disclosure Regulations provide that the values given in the Illustrative Table of Intermediary Remuneration and Sales Remuneration contained in the Preliminary Disclosure Certificate for a PRSA not being a Standard PRSA to be provided before a client signs a proposal or an application form may be shown on a generic basis. Where Illustrative Tables of Intermediary Remuneration and Sales Remuneration are prepared on a generic basis, the guiding principle that contributors be provided with illustrations which are fair, clear and not misleading also applies. The generic Illustrative Table of Intermediary Remuneration and Sales Remuneration used should be typical in relation to product parameters, such as age, policy term and contribution amount. Where more than one remuneration structure applies to the product in question, the highest such remuneration structure should be used in constructing the generic Illustrative Table of Intermediary Remuneration and Sales Remuneration.
- 1.11 The Minister for Social and Family Affairs has responsibility in law for the implementation of the PRSA Disclosure Regulations. The Actuary should therefore, subject to the request or consent of the PRSA provider, be prepared to explain and justify to the Department of Social and Family Affairs and to the Pensions Board the advice given by the Actuary to the PRSA provider which underlies Preliminary Disclosure Certificates and Statements of Reasonable Projection.

## **2 Scope of Guidance Note**

- 2.1 This Guidance Note sets out the principles in accordance with which the various parameters underlying the calculation of the figures required to be disclosed in the Illustrative Table of Intermediary Remuneration and Sales Remuneration set out in the IPRSA Disclosure Regulations should be determined.

- 2.2 The Guidance Note has regard to the objectives of the provision of remuneration information, which are:
- (a) in the case of a PRSA contract proposed for on the advice of an independent intermediary, firstly to inform the contributor of any remuneration received or to be received by the independent intermediary from the PRSA provider in connection with the PRSA contract, and secondly to provide the contributor with sufficient information to enable the contributor to identify any provider or product bias on the part of the independent intermediary; and
  - (b) in the case of a PRSA contract proposed for on the advice of any other intermediary or of a sales employee, firstly to inform the contributor of any remuneration received or to be received by such intermediary or sales employee from the PRSA provider in connection with the PRSA contract on an equivalent basis to that which would have applied in the case of an independent intermediary, and secondly to ensure a “level playing field” in relation to the provision of remuneration information as between independent intermediaries, other intermediaries and sales employees.
- 2.3 Pursuant to the objectives set out in Paragraph 2.2, the client should be provided with details:
- (a) of the amount or value in cash terms of the remuneration which is to be paid in respect of the PRSA contract;
  - (b) in a manner which is fair, clear and not misleading; and
  - (c) which indicate the timing of payments.

### **3 Principles**

- 3.1 Where an intermediary or a sales employee receives remuneration in connection with a PRSA contract sold to a client, the PRSA Disclosure Regulations require that the amount of the remuneration appropriate to the PRSA contract to be received by the intermediary or sales employee be disclosed to the contributor. This must be prior to the contributor being invited to sign an application form for that contract.
- 3.2 The remuneration to be disclosed is to include both cash payments and the cost of benefits and services provided to the intermediary or sales employee by the PRSA provider. The costs of benefits and services to be taken into account in determining the remuneration and the way in which the total of those costs will be apportioned over individual contracts are required to be determined in accordance with the provisions of this Guidance Note.
- 3.3 In the case of an intermediary who is not a connected person vis-à-vis the PRSA provider, the remuneration disclosed will be based on the payments, benefits and services provided to that intermediary by the PRSA provider.
- 3.4 In the case of an intermediary who is a connected person vis-à-vis the PRSA provider, or in the case of a sales employee, the remuneration disclosed will be based on the payments, benefits and services provided to that intermediary or sales employee by the PRSA provider or by any person or organisation connected to the PRSA provider. In addition a profit margin will be added to reflect comparability with intermediaries unconnected to the PRSA provider, where the remuneration payments effectively include a profit element.
- 3.5 The objective of this Guidance Note is that the amounts disclosed by an intermediary who is a connected person vis-à-vis the PRSA provider or by a sales employee of the PRSA provider should be, as far as possible, consistent with the amounts of remuneration that would be disclosed by an independent intermediary. For example, benefits and services which can be excluded from the provision of information on remuneration in the case of independent intermediaries can be excluded from the provision of information on remuneration in the case of other intermediaries and of sales employees.

- 3.6 In this Guidance Note, benefits and services refer to those benefits and services the costs of which must be disclosed as part of the cost of remuneration appropriate to the PRSA contract. The Actuary should ensure that all the costs of those categories of benefits and services which fall within the provision of information on remuneration have been included.
- 3.7 The cost of head office and branch level support for independent intermediaries (e.g. broker branches and ‘inspectors’) need not, in general, be disclosed as part of an independent intermediary’s disclosable remuneration.

For equivalence, therefore, the disclosable remuneration in the case of other intermediaries and of sales employees should not include the cost of head office and branch level management and support, to the extent that such services could also be provided to independent intermediaries and not be disclosed.

- 3.8 There may be circumstances where the Actuary believes that a straight addition of all the disclosable costs may give rise to a misleading result.

Examples might include:

- (i) The start-up of a new company where very high initial overhead costs are being incurred in establishing distribution channels.
- (ii) Support for exceptional new business expenses in a particular year.
- (iii) Temporary support for distribution expenses whilst cost-reduction measures are being taken.

In these circumstances, for equivalence with established companies, it may be appropriate for some of the otherwise disclosable costs to be excluded, provided that all the following conditions are met.

- (i) Such costs are being met out of shareholders’ capital rather than expense loadings, and a board minute to this effect has been adopted.
  - (ii) The disclosed remuneration amounts are not less than the loadings for remuneration in the relevant contributions.
  - (iii) Reductions in such costs in future years to the levels disclosed should be evidenced by definite business plans on, in the opinion of the Actuary, realistic assumptions.
  - (iv) The excluded expenses consist only of services as described in Section 9 of this Guidance Note provided to tied agents and/or sales employees.
- 3.9 Where the Actuary has doubts about whether certain categories of cost should be included or excluded, the Actuary should consult the Society. Where appropriate, the Society may consult the Department of Social and Family Affairs and/or the Pensions Board in relation to matters so raised.

#### **4 Remuneration**

- 4.1 The costs of benefits and services to be taken into account and the way in which the total of those costs is to be apportioned over individual contracts to increase the disclosable payments are to be advised to the PRSA provider by the Actuary. The advice given by the Actuary is expected to take account of guidance provided by the Society of Actuaries in Ireland for this purpose. The Department of Social and Family Affairs and the Pensions Board will normally expect the PRSA provider to follow the advice received as a result of this consultation. Where this is not the case, the Pensions Board would be so notified in the declaration submitted by the PRSA provider to the Pensions Board pursuant to the requirements of the PRSA Disclosure Regulations.

- 4.2 The estimation of the cost of benefits and services should normally be based on the most recent relevant experience of the PRSA provider. Deviation from this will be appropriate, however, when:
- (i) the Actuary has reasonable grounds to believe that the remuneration will be higher than that implied by the experience; or
  - (ii) the Actuary has strong grounds to believe that the remuneration will be lower than that implied by the experience; or
  - (iii) no such experience is available, in which case the estimation should be based on business plans which the Actuary has strong grounds to believe are achievable.
- 4.3 The costs of benefits and services should be split into new business costs and the costs of servicing existing contributors. The costs attributable to servicing should be assessed directly in relation to the work carried out by the intermediaries or sales employees. It should be noted that it may not be appropriate to assume that the split bears the same ratio as new business payments bear to renewal payments.
- 4.4 Where an intermediary is a connected person of the PRSA provider, (e.g. in the same Companies Act group), it may be the case that the remuneration received by the intermediary is not on a commercial basis. In these circumstances, the remuneration disclosed should be based on the payments, benefits and services provided to the employees of the intermediary, whether they are provided by the PRSA provider or by a connected person, as though the relevant employees were sales employees of the PRSA provider.

A similar situation could arise where a PRSA provider distributes its products using the resources and facilities of another company in the same Companies Act group. In these circumstances, the remuneration disclosed should be based on the payments, benefits and services provided to the sales employees of the company, whether they are provided by the PRSA provider or by a connected person. Where a retail distribution network (for example, the branch network of a bank) is used to distribute a range of financial or other products, the part of the cost of such network relating to relevant PRSA business should be determined by allocating to such business the appropriate parts of all the costs of the network. The allocation of only marginal costs to relevant PRSA business would not be appropriate; the allocation should include both the variable costs associated with relevant PRSA business and an appropriate proportion of the fixed costs of the network.

- 4.5 Where payments are made entirely in cash to unconnected intermediaries, they will normally be at a level not only sufficient to meet all the costs incurred by the unconnected intermediaries but also to provide a profit. For equivalence, therefore, the disclosable remuneration in the case of connected intermediaries and of sales employees should be increased to allow for the profits expected to be made within the group from carrying out the activities the costs of which are disclosable as part of remuneration.

In the absence of relevant research in this area in Ireland and having regard to experience in this area in the United Kingdom, the profit margin referred to in Paragraph 3.4 should be 15% of remuneration, unless the Actuary considers that this figure is inappropriate and substitutes another, more realistic figure in its place to represent the profit margin made from carrying out activities the costs of which are disclosable as part of remuneration ('disclosable activities'). In estimating whether a lesser profit margin than 15% would be appropriate possible approaches include:

- (i) A comparison with the remuneration scales of similar unconnected intermediaries either of the same PRSA provider or more generally in the market. For example, if the remuneration without the 15% uplift is lower than scales typically payable to unconnected intermediaries but with the 15% uplift the remuneration is higher, then an intermediate uplift may be appropriate.

- (ii) An apportionment of the expected profit on the PRSA contract between that generated by disclosable activities and that by other activities (e.g. risk taking, administration, etc.). In making such an apportionment, the Actuary should be careful not to overestimate the profit made on the other activities.

## **5 Construction of Remuneration Scales - General**

- 5.1 The remuneration costs should be spread across the business using a new business remuneration scale and a servicing remuneration scale.
- 5.2 The principles set out in Paragraphs 5.3 to 5.10 should apply to the construction of remuneration scales.
- 5.3 The incidence of the remuneration should be disclosed as well as the amounts.
- 5.4 The new business remuneration scales when applied to the total value/volumes of business should reproduce the total remuneration costs (payments, benefits and services plus profit, if appropriate), and similarly for the servicing scales.
- 5.5 Separate remuneration scales should be constructed for untied intermediaries and tied agents, as well as for sales employees. It is permissible for the remuneration scale for a given category (for a given product) to be an average across the PRSA provider as a whole. If, however, a PRSA provider operates two or more different structures of remuneration within a category then the remuneration scale should be calculated separately for each.
- 5.6 In the case of tied agents and sales employees, it is recognised that some receive more remuneration than others and that often such differences reflect the extra experience of senior sales personnel and their sales volumes.
- 5.7 Where there is an identical remuneration scale applying to all members of a category (although they might earn differing percentages of it) the same amount of remuneration (and the value of other benefits and services) in respect of identical transactions may be disclosed regardless of the percentage of the scale paid to each individual member of the category. Note, however, that this method of averaging would be limited to the individuals operating within a category. It would not be possible, for example, to take an average for different categories.
- 5.8 In all cases the amounts disclosed must allow the contributor to determine whether there is any product bias and they must be fair and not misleading.
- 5.9 Where an intermediary or sales employee agrees with a contributor to forgo a part of his normal payment in order to improve the terms of the contract, the same uplift factor (see Paragraph 6.2(iii)) may be applied to the reduced payment, or the same monetary cost of benefits and services may be used, subject to the following constraints.
  - (i) The 'same uplift factor' approach should be adopted only if the contributor will *also* receive the full benefit of the lower of:
    - (a) the reduction in the amount of disclosed remuneration for non-financial benefits and services; and
    - (b) an equivalent proportion of the PRSA contract loadings intended to cover non-financial benefits and services.
  - (ii) Where the 'same uplift factor' approach (in Paragraph 5.9) is adopted, the proportion of payments forgone must be allowed for in calculating the uplift factor.
  - (iii) Where an average scale of remuneration is used, the percentage reduction in payment in respect of the individual intermediary or sales employee may be applied to the average payment in order to calculate the reduced payment.

- 5.10 Payments, benefits and services relating to other than PRSA business are to be disclosed in the circumstances outlined in Paragraphs 7.7 and 7.8.

## 6 Construction of Remuneration Scales - Suggested Methods

- 6.1 It is the responsibility of the Actuary to recommend to the PRSA provider a suitable remuneration scale which conforms to the principles outlined above. The following methods would be appropriate in the circumstances outlined.

- 6.2 Where the intermediary or sales employee is paid by a transaction based payment scale related to volume and/or value of business sold:

- (i) The payment scale is adjusted for any over-ride payments based on new business volumes. Furthermore any additional (and previously undisclosed) remuneration (e.g. additional renewal commission) in respect of previous years' business is added. The adjusted payment scale applied to the anticipated new business should reproduce the anticipated payments.
- (ii) The payment scale is divided into a new business payment scale and a renewal payment scale.
- (iii) The cost of benefits and services is expressed in the form of a new business uplift factor and a servicing uplift factor.

$$\text{New business uplift factor} = \frac{\text{Cost of new benefits and services}}{\text{New business payments}}$$

$$\text{Servicing uplift factor} = \frac{\text{Cost of servicing benefits and services}}{\text{Renewal payments}}$$

- (iv) The calculation may be done separately for as many or as few different classes of business as will ensure that any resulting differences are justified by actual differences in circumstances and that any significant differences are not masked. The calculation may be done separately for different classes within a category or averaged across the category (see Paragraph 5.5).
- (v) The payment scales are grossed up by new business uplift factors or servicing uplift factors as appropriate to reflect the cost of benefits and services. The grossed up scales represent the new business and servicing remuneration scales, and are applied to the individual PRSA contract concerned to derive the disclosable remuneration.
- (vi) Where the level of payment in the first year of a PRSA contract equals the level of payment in subsequent years (level payment scale) then, for the purposes of Paragraph 6.2(iii), 'new business payment' refers to the payments in the first contract year and 'renewal payment' refers to the level of payment in subsequent contract years.
- (vii) If servicing costs are expected to be incurred in any year in which no renewal payments are to be made on a PRSA contract, provision of information on remuneration should still be made, for example by using a technique similar to that described in Paragraph 6.3.
- (viii) As an alternative to expressing the cost of benefits and services in the form of a new business uplift factor and a servicing uplift factor, the cost of benefits and services may be expressed in the form of a multiple of the relative measure of value placed on the individual contracts by the PRSA provider (or the PRSA provider's group), as determined in accordance with Paragraph 6.3. The apportionment of new business benefits and services between individual contracts is according to the relative

measure of value and an appropriate relative measure of value should be used to apportion servicing benefits and services.

- 6.3 Where an intermediary or a sales employee does not receive any payments related directly to value or volume of business (e.g. the intermediary receives a predetermined payment or the sales employee is paid by a fixed salary), there is no contract-related payment which, suitably uplifted for the cost of benefits and services, can be disclosed. In such circumstances, the payments should be amalgamated with the cost of benefits and services, and be disclosed as set out below.

Similarly, where, for a particular contract, an intermediary or a sales employee does not receive any contract-related payment but the contract in question contributes to the receipt by the intermediary or sales employee of other payments, benefits or services, there is no contract-related payment which, suitably uplifted for the cost of benefits and services, can be disclosed. In such circumstances, the total payments, benefits and services relating to contracts of this type should be determined, and be disclosed as set out below.

In both the circumstances outlined above, the apportionment of the total costs over individual contracts should be done in a way which reflects the value of the contract to the PRSA provider or the PRSA provider's group. The following approach should be applied.

- (i) The Actuary ascertains the relative measure of value placed on the individual contracts by the PRSA provider (or the PRSA provider's group). In this context it is appropriate to judge 'value' in relation to any (non-remunerated) internal scale of success or validation which the PRSA provider applies to judge the relative success of individual intermediaries, salesmen, branches or regions. If no such scale exists it may be appropriate to judge 'value' broadly in relation to the expense contributions or charges generated by the contract or on a scale of value determined by the Actuary as being appropriate.
- (ii) The total costs are split between new business and servicing costs to determine new business remuneration and servicing remuneration. The apportionment of new business remuneration between individual contracts is according to the relative measure of value and an appropriate relative measure of value should be used to apportion servicing remuneration.

- 6.4 Where other methods of remuneration are employed, e.g. part salary or predetermined payment and part related to the volume/value of sale, the salary or predetermined payment element should be added to the cost of benefits and services and the method in Paragraph 6.2 may be employed.

## **7 Payments**

- 7.1 Where an intermediary or a sales employee will receive a straightforward payment on each sale, the first element of disclosable remuneration is relatively simple to disclose, being the amount of that payment.

- 7.2 However, the precise rate of payment may not be known in advance (for example if retrospective volume overrides apply). In such cases, it will be necessary for the Actuary to estimate the likely rate to apply to the intermediary or sales employee in question. This could, for example, be based on an average rate applicable to particular groupings of intermediaries or sales employees or on a best estimate for each intermediary or sales employee. It should never be below any minimum rate applicable to that intermediary or sales employee or sale.

- 7.3 Remuneration earned by any other employee in respect of the sale (e.g. a manager's override) must also be added in, using estimates where appropriate as described above, to the extent that such remuneration is not in respect of services, which, if provided to an independent intermediary, would not be disclosable. Payments to introducers by the PRSA provider must also be included.

- 7.4 Bonus payments which may be made if certain targets ( e.g. sales targets, persistency targets) are met must be treated in a similar manner to volume overrides.
- 7.5 Salaries and any other payments which do not relate directly to any one sale should be treated in a manner similar to that set out below for benefits and services. However, see Paragraph 6.3 for the special case of sales employees remunerated only by salary.
- 7.6 The guidance below is provided to assist the Actuary in determining the payments to disclose.
- (a) Where payments are credited to an ‘account’ from which periodic withdrawals may be made, the amount disclosed should be that credited to the account whether or not the recipient intends to withdraw it immediately. If an intermediary or sales employee is able to ‘overdraw’ an account, all amounts to be credited in respect of a contract, up to any ‘borrowing limit’, must be disclosed as if they were credited on inception of the contract.
  - (b) Where a payment is made in advance of the receipt of a premium to which it relates (e.g. indemnity commission), it should be disclosed as being received at the time of payment.
  - (c) Where a PRSA provider makes arrangements through a third party for a lump sum to be paid to an intermediary or sales employee in exchange for the income stream to which the intermediary or sales employee is entitled (e.g. a factoring arrangement) then the lump sum so receivable must be disclosed as if it were a payment from the PRSA provider.
  - (d) Where a PRSA provider provides an intermediary or sales employee with a loan or makes arrangements for a third party to provide a loan on the security of, or in the expectation of, future payments from the PRSA provider, then so much of the payments to the intermediary or sales employee in respect of a contract as will be or has been taken into account in determining the amount of the loan must be disclosed as if they were received at inception of the contract, irrespective of the actual incidence of the payments.
- 7.7 Where payments are being made by the PRSA provider or a connected person to an intermediary or sales employee in respect of business other than relevant PRSA business, any element of these other payments which may be considered to result directly or indirectly from the sale of relevant PRSA business must be regarded for the purpose of the provision of information on remuneration as if they did so result (and hence be subject to the provision of information on remuneration). A similar requirement applies to any benefits or services.
- 7.8 For example, if a higher rate of remuneration is paid on a mortgage when it is to be repaid by a pension endowment than when it is stand-alone, the difference must be disclosed as a payment in respect of the pension endowment.
- 7.9 More generally, if there is a ‘drift’ in remuneration away from relevant PRSA business towards other business, this is likely to be regarded by the Department of Social and Family Affairs and by the Pensions Board as an attempt by the PRSA provider to evade the provision of information on remuneration requirements unless the procedures outlined in Paragraph 7.7 are followed.
- 7.10 Payments directly as a result of business written in previous years (e.g. renewal commission) should be allocated to new business to the extent that they are increased or only continue conditional on the completion of minimum amounts of new business.
- 7.11 Payments are usually made either on:
- (i) an ‘earned’ basis, whereby the payment is made on the happening of the event to which it relates and where, in the event of the PRSA contract subsequently lapsing,

the intermediary or sales employee will not be required to make a refund of any part of the payment; or

- (ii) an 'indemnity' basis, whereby the payment is made in advance of the happening of the event to which it relates and where, in the event of the PRSA contract lapsing before the happening of that event, the intermediary or sales employee will be required to make a repayment to the PRSA provider.

Where payments are made on an 'indemnity' basis and the amount repayable by an intermediary in the event of a PRSA contract lapsing is equal to or less than the 'unearned' payments which relate to events to happen in the future, such repayments are to be ignored, and the schedule of payments is to be determined on the basis that the PRSA contract continues in force for the full duration of the illustrations.

Where payments are made on an 'indemnity' basis and the amount repayable by an intermediary in the event of a PRSA contract lapsing is greater than the 'unearned' payments which relate to events to happen in the future, the excess of such repayments actually received over the 'unearned' payments may be offset against the cost of services for the purposes of Section 9, provided that the total cost of services disclosed is not negative. Any such excess must be treated in a similar manner to volume overrides as described in Paragraph 7.2.

Where payments are made on an 'indemnity' basis, the allocation of such payments to events for the purposes of this Paragraph must be made in a manner which is fair, clear and not misleading; for example, if, under a monthly contribution PRSA contract, all initial commission is paid on an 'indemnity' basis in the first month and renewal commission commences to be paid in the thirteenth month, the initial commission payment should be allocated equally to each of the first twelve monthly premiums.

## **8 Benefits**

- 8.1 The PRSA Disclosure Regulations require that the cost of benefits should be taken into account when determining disclosable remuneration.
- 8.2 The cost of all non-monetary benefits provided by a PRSA provider to an intermediary or sales employee must, therefore, be added to the disclosable payments derived in Section 7.
- 8.3 Such benefits would include any item that would be considered as a benefit or expense under the Taxes Consolidation Act 1997. For example, use of a car, conferences, subsidised loans, etc.
- 8.4 The above Paragraph is to be used for the purposes of definition only and not for the purpose of putting a value on the items included. The amount to be included is the cost to the PRSA provider.
- 8.5 Furthermore, these items shall be included in the provision of information on remuneration whether or not the individual is liable to income tax on them and regardless of whether any such item is chargeable to tax. That is to say, the fact that an individual may not be a taxpayer will have no bearing on the provision of information on remuneration.
- 8.6 Similarly, the fact that some such benefits may not be taxable has no bearing either. In both cases provision of information on remuneration is required.
- 8.7 Other examples of benefits would include contributions to pension schemes and social insurance contributions.
- 8.8 Options provided on shares should also be valued, taking into account any discount on issue and assuming that the shares in question will grow at a reasonable rate in line with other investments.
- 8.9 The benefits listed in this Section are not intended to be exhaustive.

## 9 Services

9.1 The PRSA Disclosure Regulations require that the cost of services should be taken into account when determining disclosable remuneration. Services for this purpose are services other than those specified in Paragraph 9.3.

9.2 A PRSA provider may provide whatever services it decides to an intermediary or to a sales employee. The cost of all such services provided by a PRSA provider to an intermediary or sales employee, other than those specified in Paragraph 9.3, must, however, be added to the disclosable payments derived in Section 7.

9.3 The following goods and services supplied to an intermediary or to a sales employee (either free or subject to a charge) need not be included in disclosable remuneration.

- (i) information about the PRSA provider's contracts in the course of a telephone call which is paid for by the PRSA provider.
- (ii) literature to or for distribution on behalf of the intermediary or sales employee which relates wholly or mainly to the PRSA contracts offered by the PRSA provider, provided that the literature is of a kind which the PRSA provider generally supplies to intermediaries and/or sales employees and it is supplied to the intermediary or sales employee for distribution otherwise than at the expense of the PRSA provider and provided that either:
  - (a) the literature does not contain the name of any intermediary or sales employee; or
  - (b) the name of the intermediary or sales employee is only overprinted on the literature and the PRSA provider's name appears on the literature more prominently than that of the intermediary or sales employee.
- (iii) written technical information to an intermediary or sales employee which does not relate specifically or solely to the PRSA provider's contracts, provided that:
  - (a) such information is available to intermediaries and/or sales employees generally or to a class of intermediary or sales employee (and accordingly is not intended to be used only by the intermediary or sales employee to whom is supplied); and
  - (b) such information states clearly and prominently that it is produced by the PRSA provider.
- (iv) quotations and projections relating to the PRSA provider's contracts and advice on the completion of forms or other documents.
- (v)
  - (a) access to data-processing facilities, or access to data, which is directly and specifically related to the PRSA provider's contracts; and
  - (b) software which gives information about the contracts offered by the PRSA provider or which is otherwise wholly directly and specifically related to the provision of quotations for the PRSA provider's contracts.

These sub-paragraphs apply to data relating to a broker fund but do not apply to any payment in respect of a telecommunication link.

- (vi)
  - (a) a visit of an employee of the PRSA provider or of any connected person of the PRSA provider to the intermediary or sales employee for business purposes;
  - (b) a visit of an employee of the PRSA provider or of any connected person of the PRSA provider to a contributor with a member of the staff of the intermediary or with the sales employee where the particular circumstances of the case require such a visit to be made.
- (vii)
  - (a) seminars or conferences for intermediaries and/or sales employees, provided that they are for bona fide business purposes,

- (b) training facilities (including lectures, written material and software) which relate specifically or solely to the PRSA provider's contracts, and
- (c) training facilities (including lectures, written material and software) which do not relate specifically or solely to the PRSA provider's contracts, provided the PRSA provider makes such facilities generally available for intermediaries and/or sales employees,

provided that such seminars, conferences and training take place only in the Republic of Ireland, and the PRSA provider does not pay, or contribute in any way to, the travelling expenses or overnight expenses of any intermediary or sales employee.

- (viii) participation by the PRSA provider in seminars given by intermediaries and/or sales employees, provided that:
  - (a) such participation is for bona fide business purposes; and
  - (b) the PRSA provider does not pay, or contribute in any way to, the costs of the seminar.
- (ix) participation by the PRSA provider in seminars organised on behalf of intermediaries and/or sales employees, provided that:
  - (a) such participation is for bona fide business purposes; and
  - (b) the PRSA provider is satisfied, on reasonable grounds, that no intermediary or sales employee will receive any payment, fee or other reward (whether directly or indirectly) from the organiser; and
  - (c) the seminar is not organised solely on behalf of one intermediary or sales employee but is available for participation by intermediaries and/or sales employees generally.
- (x) entertainment and promotional gifts bearing the PRSA provider's name, provided that:
  - (a) such entertainment does not exceed what is normal and reasonable in all the circumstances of the case and takes place only in the Republic of Ireland, and the PRSA provider does not pay, or contribute in any way to, the travelling expenses or overnight expenses of any intermediary or sales employee;
  - (b) gifts given to any one sales employee, or to any employee of a connected intermediary who is treated for the purposes of Paragraph 4.4 as though the relevant employee was a sales employee of the PRSA provider, in any one calendar year do not exceed €50 in value; and
  - (c) gifts given to any one intermediary in any one calendar year do not exceed €50 in value, multiplied by the number of individuals in the intermediary firm registered with the Irish Insurance Federation as life assurance salespeople.

For the purposes of sub-paragraphs (b) and (c) above, gifts of pocket diaries and calendars shall be disregarded.

- (xi) information about sources of money which may be made available by way of loan to finance the purchase of land or buildings by clients of the intermediary or sales employee, and such information may be provided by way of documents or on discs or in any other form and may be accompanied by or be part of further assistance which is related to the obtaining of such finance.

9.4 Where the service is the use of an asset owned by the PRSA provider (e.g. the use of an office) the value taken into account should be the commercial value of the service (e.g. in the case of a property, full market rent). A similar principle applies to benefits as defined in Section 8 above.

9.5 Examples of the types of services, the costs of which should be included are:

Office accommodation and equipment, including telephone, e-mail, photocopying and fax.

Loans where a commercial rate of interest is not charged, including remuneration advances overdue for repayment.

General stationery.

Computer hardware and software.

Clerical and administrative support.

Business insurance cover, including PI and fidelity guarantee.

Recruitment.

Compliance monitoring.

Business planning services.

Line management.

This list is not intended to be exhaustive.

9.6 The Guidance below is provided to assist the Actuary in determining the costs to include in respect of services:

(a) Where an intermediary or sales employee contributes towards these costs out of their own resources, the cost to be taken into account may be appropriately reduced.

(b) Where a cost is identified which required inclusion (e.g. all or part of the salary of an employee of the PRSA provider) then all the overheads associated with that cost should also be included.

(c) The salary of an individual engaged only part-time on relevant PRSA business need be included only pro rata.

(d) Rent and associated costs of premises may be reduced to the extent that some of the premises are used for activities other than relevant PRSA business.

(e) The cost of corporate awareness advertising (advertising which does not solicit a response) may be excluded. The cost of lead generation advertisements (advertisements which solicit a response) must be included. Advertisements which include a reply coupon, or give a contact name, telephone number, fax number or e-mail address are deemed to be advertisements which solicit a response. Advertisements whose primary purpose is to raise corporate awareness but which indicate in general terms where further information may be obtained (for example, by using a phrase such as "contact your insurance broker, ABC bank branch or XYZ financial consultant") would not generally be deemed lead generation advertisements. The cost of lead generation advertisements may be reduced pro rata to the extent that they can reasonably be expected to lead to business other than relevant PRSA business.

- (f) Lead generation activities must include the costs of placing an advertisement and the carrying out and mailing or the provision of access to third party clients. However, no account need be taken of the intrinsic value of existing clients of the PRSA provider or any associated organisation.
- (g) No costs need be included in respect of training. However, companies must ensure that this exemption extends only to the cost of services which could be provided in accordance with Paragraph 9.3(vii).
- (h) PRSA contract administration costs are excluded, as are costs associated with the development and maintenance of computer systems for the purposes of providing projections of benefits or other product information.
- (i) The cost of compensating investors may be excluded.

## **10 Review of Scales**

- 10.1 The Actuary should advise the PRSA provider if at any time the Actuary becomes aware that the remuneration figures have become misleading. A review should take place at least annually.