ARTHUR COX

UK Buy-Outs and Irish Members: Navigating the Cross-Border Challenge

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UK buy-out. Irish members. A clear benefit specification.

You are advising a mature UK DB scheme approaching buy-out.

BUY-IN → **EVENTUAL BUY-OUT**

IRISH INPUT:

There are a handful of Irish members.

Key question - how to establish what benefits the insurer must secure.

Identify the Irish members' entitlements.

Capture them in the benefit specification for buy-out.

Roadmap

01 What Irish members are in scope?

02 What applies, and why?

Four sources: Approval · Applicable law · Scheme rules and practice

03 Practical examples

04 Developing annuity market

05 Moving from buy-in to buy-out

06 Closing

What Irish members are in scope?

The Irish-service cohort is the principal focus.

IE

IRISH-SERVICE COHORT

Lived and worked in Ireland
Benefits earned through Irish employment
Members of a UK scheme

Different administration • Irish payroll? • Irish tax limits? • Revenue approval letter — or assumption?

Four questions. Four sources.

01

Approval

- Terms and scope of Irish approval
- Benefit limits and tax deduction

02

Law

- UK default framework; check exemptions
- Separate Irish tax from pensions law

03

Scheme rules

- What is promised or restricted?
- Interpret any Irish Act wording

04

Practice

- What was calculated and administered?
- Communications and any underpin

01. Approval: Why the history matters

Three facts locate the relevant historical regime.

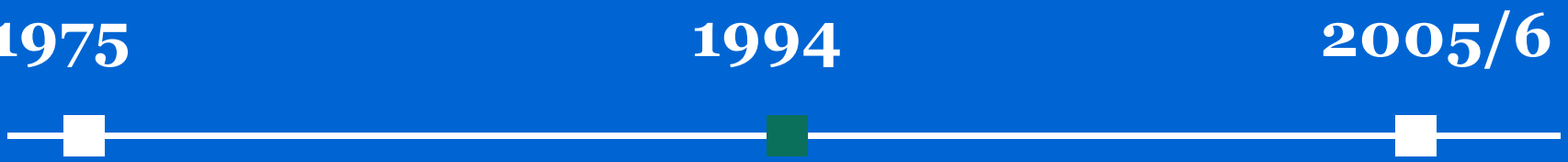
01 When did members join?

02 When and on what basis was approval obtained?

03 When did Irish accrual end?

01. Approval: An evolving cross-border framework

The framework changed over time — check the applicable regime and dates.



Reciprocal approval

Minimum formality

Protocol + split approval

Narrower contribution relief; separate approval requirements

Post-IORP cross-border framework

Migrant member relief

02. Applicable law: start with the UK scheme framework

UK SCHEME

UK pensions law is the default framework
Check relevant exemptions

IRISH ANALYSIS

Irish tax requirements
≠ Irish pensions legislation

Legacy reciprocal cohorts: do not assume direct Irish preservation / revaluation

REQUIRED BY RULES

Irish underpin may be required by the scheme rules

PRUDENT APPROACH

Or adopted as a prudent, lower-risk approach

Revaluation: test the member result; do not assume UK treatment is always more generous.

Scheme rules, then practice

03 SCHEME RULES → 04 PRACTICE

Read the promise, then test what was delivered

READ THE WORDING

What is promised or restricted?

TEST THE OPERATION

What was calculated, administered and communicated?

Example 1 | The approval records are missing

“We have Irish members. We have been paying them in euros, but we have no definitive evidence of Revenue approval.”

Membership & employer history

Rules & member communications

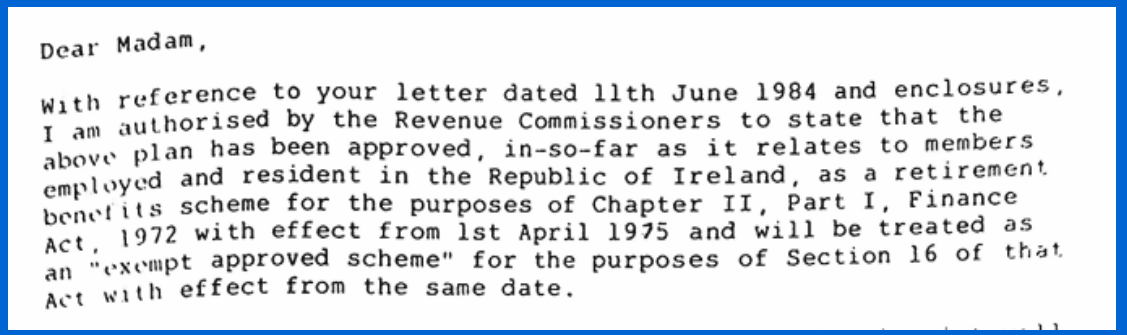
Calculations & tax practice

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Reconstruct the timeline

Example 2 | The approval letter is found

- **“exempt approved scheme”**
- **“in-so-far as it relates to members employed and resident in the Republic of Ireland”**
- **Approval effective 1 April 1975**



Dear Madam,

With reference to your letter dated 11th June 1984 and enclosures, I am authorised by the Revenue Commissioners to state that the above plan has been approved, in-so-far as it relates to members employed and resident in the Republic of Ireland, as a retirement benefits scheme for the purposes of Chapter II, Part I, Finance Act, 1972 with effect from 1st April 1975 and will be treated as an "exempt approved scheme" for the purposes of Section 16 of that Act with effect from the same date.

Extract from Revenue approval letter

Cohort-specific tax approval. Then trace what happened next.

Example 3 | The rules contain special wording

"no benefit or contribution will be provided … that is contrary to the provisions of the Pensions Act 1990 enacted in the Republic of Ireland"

Benefit / contribution restriction ≠ Automatic incorporation of the entire Act

Scheme-specific wording — not a universal position.

Scheme rule extract (across a page break)

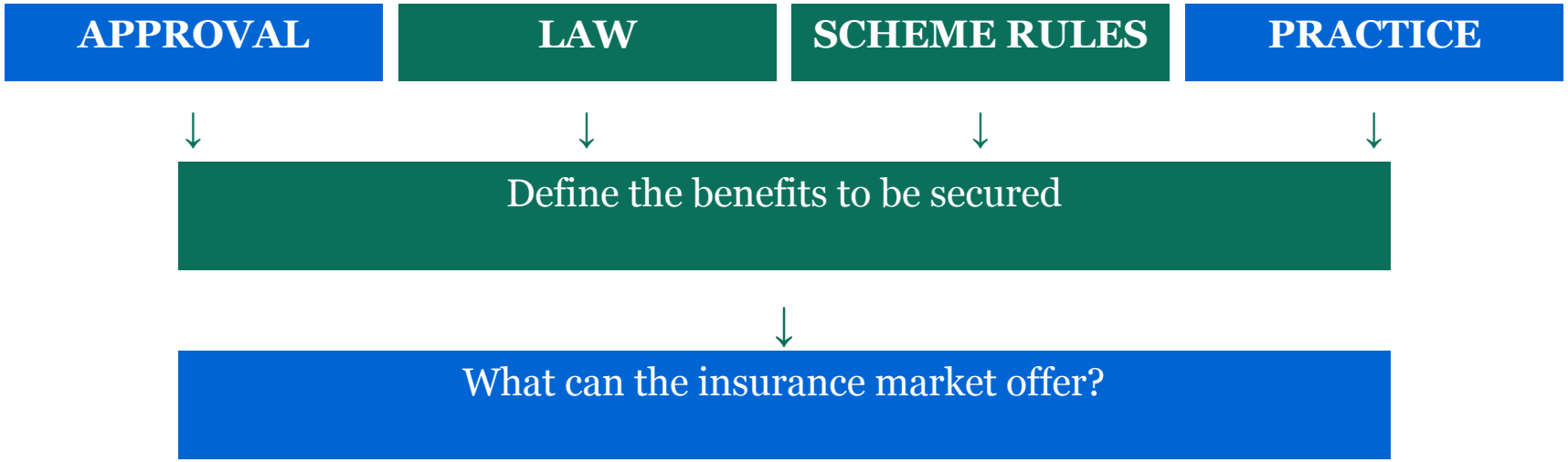
(E) Notwithstanding any contrary provisions in these Rules, no benefit or contribution will be provided to or

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in respect of a Member that is contrary to the provisions of the Pensions Act 1990 enacted in the Republic of Ireland or would prejudice the approval given to the Plan by the Irish Inland Revenue.

PRESERVATION • REVALUATION • IRISH UNDERPIN?

The framework meets the evidence



The missing piece: deferred annuities

	IMMEDIATE ANNUITIES	DEFERRED ANNUITIES
	Long established	Historically no established offering
IRISH SCHEME / IRISH INSURER /IRISH MEMBERS		First completed buy-out using the product earlier this year
UK SCHEME / UK INSURER / IRISH MEMBERS		Irish requirements carried into individual policies

A “relevant benefit” — not an approved scheme

DEFERRED ANNUITY POLICY = **“RELEVANT BENEFIT”**

No formal product approval

Irish tax conditions still apply, including s.772(3) TCA 1997

DOMESTIC IRISH CONTEXT

Statutory-discharge questions: separate analysis

OPPORTUNITY

An insured destination for Irish benefits in UK schemes

A new route, with consequences for members

NO TRANSFERS OUT OF THE DEFERRED ANNUITY

01	Assess the loss of flexibility
02	Explain it clearly before buy-out
03	Consider appropriate steps before securing benefits

Product terms. Tax conditions. Members' best interests.

Bring the Irish and UK analysis together

IRISH LENS

History
Revenue approval
Irish tax requirements
Irish Pensions Act — where relevant

UK QUESTIONS

Insurer jurisdiction?
Policy and issuance?
UK tax?
Trustee discharge?

Irish compliance does not answer the UK discharge question.

Secure the right benefits — not just a policy

Irish tax limits and insurer capability

Administration of Irish limits
Policy terms
Information and systems

AVCs and tax-free cash

Accrued lump sum vs optional commutation
Establish available scope within applicable Irish limits

Revaluation and any Irish underpin

Confirm past treatment
Adjust if needed
Reflect any continuing underpin in the policy

Correct benefits • Complete data • Policy terms • Administrative systems

Make Irish tax treatment work in practice

IRISH PAYROLL

Working payroll arrangement
Maintain required Irish tax treatment
Operational continuity after buy-out

MEMBER INFORMATION & CONTROLS

Necessary member information
Accurate tax and payment records
Clear insurer responsibilities
UK withholding aspects

Correct tax treatment requires workable administration

Test the route before committing to buy-in

Existing or proposed buy-in → Provider able to meet Irish requirements? → Individual policies / buy-out

QUESTIONS TO TEST

Irish insurer or UK insurer?	UK legal and tax consequences?	Issue to UK trustees, then assign?

The route must work for the actual scheme and insurer.

The trustee decision: power, outcome and protection

01	Power to buy out / proper exercise
02	Product limitations / member communications and mitigation
03	Decision record / UK discharge and remaining exposure

DEFERRED ANNUITIES

Address the loss of transfer flexibility

Identify requirements. Choose a capable insurer. Resolve limitations before buy-out.

Insure the entitlement, not the assumption

01	Reconstruct the history — members, approvals, accrual, documents
02	Identify obligation source — Approval, Law, Rules or prudent underpin
03	Distinguish buy-in from buy-out — asset purchase vs delivering the insured promise

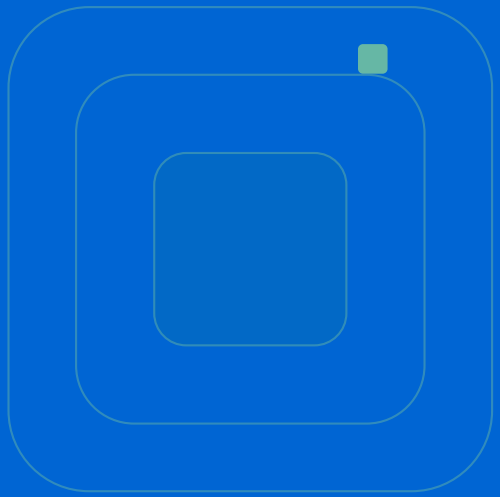
History → obligation → insured promise

A handful of Irish members need not derail the endgame — if the entitlement is identified and deliverable.

A workable solution.
Scheme-specific diligence.

Policy + administration + Irish tax requirements

A product is the beginning of the answer — not the whole answer.



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Thank you

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