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STATUTORY INSTRUMENTS

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**2006 No. 745**

**INCOME TAX**

**The Taxation of Pension Schemes  
(Consequential Amendments) Order 2006**

<i>Made</i>	- - - -	<i>14th March 2006</i>
<i>Laid before the House of Commons</i>	- - - -	<i>15th March 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Treasury make the following Order in exercise of the powers conferred upon them by section 281(2) of the Finance Act 2004<sup>(1)</sup>.

**Citation and commencement**

1. This Order may be cited as the Taxation of Pension Schemes (Consequential Amendments) Order 2006 and shall come into force on 6th April 2006.

**PART 1**

**Consequential Amendments to Primary Legislation**

**Amendment of the Telecommunications Act 1984**

2. In section 72(3) of the Telecommunications Act 1984 (tax provisions) <sup>(2)</sup> substitute—
- “(3) Where, in the discharge of any liability which is vested in the successor company by this Act, the successor company makes payments—
- (a) to an occupational pension scheme,
  - (b) with a view to the provision of benefits authorised under Chapter 3 of Part 4 of the Finance Act 2004, and
  - (c) for persons who are employees of the Post Office,

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(1) 2004 c. 12.

(2) 1984 c. 12. Section 72(3) was amended by paragraph 32 of Schedule 29 to the [Income and Corporation Taxes Act 1988](#) (c 1).

the Taxes Acts shall have effect in relation to those payments as if those persons were employees of the successor company and in this subsection expressions which are used in Part 4 of the Finance Act 2004 have the same meanings as in that Part.”.

### **Amendment of the Electricity Act 1989**

- 3.**—(1) The Electricity Act 1989(**3**) is amended as follows.
- (2) In Schedule 14 (The Electricity Supply Pension Scheme)—
- (a) in paragraph 1(1)—
    - (i) in sub-paragraph (a)(iii) after “will not prejudice its” insert “registration or”; and
    - (ii) in sub-paragraph (e) after “continues to be” insert “registered or”; and
  - (b) in paragraph 5(1)(**4**), in the definition of “the relevant enactments” for “Chapter 1 of Part 14 of the Income and Corporation Taxes Act 1988 (retirement benefit schemes)” substitute “Part 4 of the Finance Act 2004 (pension schemes etc)”.
- (3) In Schedule 15 (The Scottish Pension Schemes)—
- (a) in paragraph 1(1)(d) after “continues to be” insert “registered or”; and
  - (b) in paragraph 5(1)(**5**) in the definition of “the relevant enactments” for “Chapter 1 of Part 14 of the Income and Corporation Taxes Act 1988 (retirement benefit schemes)” substitute “Part 4 of the Finance Act 2004 (pension schemes etc)”.

### **Amendment of the Social Security Contributions and Benefits Act 1992**

- 4.**—(1) The Social Security Contributions and Benefits Act 1992(**6**) is amended as follows.
- (2) In section 30DD(6) (incapacity benefit: reduction for pension payments)(**7**), for “a contract or trust scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988 (retirement annuities).” substitute “an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988, or a substituted contract within the meaning of section 622(3) of that Act, which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004”.
- (3) In section 122(1) (interpretation of Parts 1 to 6 and supplementary provisions), in the definition of “payments by way of occupational or personal pension” for paragraph (d) and (e) substitute—
- “(d) under a pension scheme registered under section 153 of the Finance Act 2004; or”.

### **Amendment of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**

- 5.**—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992(**8**) is amended as follows.
- (2) In section 30DD(6) (incapacity benefit: reduction for pension payments)(**9**), for “a contract or trust scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988 (retirement annuities).” substitute “an annuity contract or trust scheme approved under section 620

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(3) 1989 c. 29.

(4) In paragraph 5(1) the definition of “relevant enactments” was amended by paragraph 23 of Schedule 8 to the Pension Schemes Act 1993 (c. 48).

(5) In paragraph 5(1) the definition of “relevant enactments” was amended by paragraph 23 of Schedule 8 to the Pension Schemes Act 1993.

(6) 1992 c. 4.

(7) Section 30DD was inserted by section 63 of the Welfare Reform and Pensions Act 1999 (c. 30).

(8) 1992 c. 7.

(9) Section 30DD was inserted by Article 60 of the Welfare and Reform and Pensions (Northern Ireland) Order 1999 (S.I.1999/3147 (N.I. 11)).

or 621 of the Income and Corporation Taxes Act 1988, or a substituted contract within the meaning of section 622(3) of that Act, which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004”.

(3) In section 121(1) (interpretation of Parts I to VI and supplementary provisions), in the definition of “payments by way of occupational or personal pension” for paragraph (d) and (e) substitute—

“(d) under a pension scheme registered under section 153 of the Finance Act 2004; or”.

### **Amendment of the Railways Act 1993**

6. In Schedule 11 to the Railways Act 1993 (pensions ) (10)—

(a) in paragraph 1(1)(11), in the definition of “eligible persons” omit sub-paragraph (b); and

(b) for paragraph 3(3)(a) substitute—

“(a) which would prejudice registration of that scheme for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc);”.

### **Amendment of the Pension Schemes Act 1993**

7.—(1) The Pension Schemes Act 1993(12) is amended as follows.

(2) In section 9(5A) (requirements for certification of schemes: general)(13) for paragraphs (a) and (b) substitute “is a registered pension scheme under section 153 of the Finance Act 2004”.

(3) In section 28(8) (ways of giving effect to protected rights)(14) in the definition of “the termination date” omit the words after “arrangement,”.

(4) In section 28A (requirements for interim arrangements)(15)—

(a) in subsection (1) at the end insert “but the member, widow, widower or surviving civil partner may forbear to receive such payments”;

(b) in subsection (2) omit the words after “partner”;

(c) in subsection (3) for the words after “months” substitute

“(“the aggregate payment”) must not be greater than—

(a) the amount specified by pension rule 5 in subsection (1) of section 165 of the Finance Act 2004 (pension rules) for the unsecured pension year which ends in that period of twelve months, where the member has not reached the age of 75,

(b) the amount specified by pension rule 7 in that subsection for the alternatively secured pension year which ends in that period of twelve months, where the member has reached the age of 75,

(c) the amount specified by pension death benefit rule 4 in subsection (1) of section 167 of the Finance Act 2004 (pension death benefit rules) for the unsecured pension year which ends in that period of twelve months, where subsection (2) applies and the member’s widow, widower or surviving civil partner has not reached the age of 75, or

(10) 1993 c. 43

(11) Paragraph 1(1)(a)(ia) was inserted in the definition of “eligible persons” by paragraph 49(2)(a) of the Transport Act 2000 (c. 38).

(12) 1993 c. 48.

(13) Subsection (5A) was inserted by section 283 of the Pensions Act 2004 (c. 35).

(14) Section 28(8) was amended by article 2(1) of, and paragraph 9(c)(ii) of Schedule 9 to, S.I. 2005/2050.

(15) Section 28A was inserted by section 143 of the Pensions Act 1995 (c. 26) and amended by articles 1(2)(c) and (3) and 2(1) of and paragraph 10 of Schedule 1 to S.I. 2005/2050.

- (d) the amount specified by pension death benefit rule 6 in that subsection for the alternatively secured pension year, where subsection (2) applies and the member's widow, widower or surviving civil partner has reached the age of 75.

This is subject to subsection (3A).";

- (d) after subsection (3) insert—

“(3A) The proportion of the aggregate payment which gives effect to a person's protected rights must not be greater than the proportion of the value of the rights to money purchase benefits under the scheme that is attributable to the protected rights.”; and

- (e) omit subsections (4) and (5).

(5) In section 33 (tax requirements to prevail over certification requirements) for “a scheme must comply if it is to qualify for tax-exemption or tax-approval” substitute “a registered scheme must comply under Part 4 of the Finance Act 2004”.

- (6) In section 163 (exemption of certain schemes from rule against perpetuities)—

- (a) for subsection (4)(b) substitute—

“(b) to be a registered pension scheme under section 153 of the Finance Act 2004 or to be a scheme that may be expected to satisfy the conditions for registration.”; and

- (b) omit subsection (5).

(7) In section 181(1) (general interpretation) omit the definitions of “tax-exemption” and “tax-approval”.

### **Amendment of the Pension Schemes (Northern Ireland) Act 1993**

**8.—(1)** The Pension Schemes (Northern Ireland) Act 1993(**16**) is amended as follows.

(2) In section 5(5A) (requirements for certification of schemes: general)(**17**) for paragraphs (a) and (b) substitute “is a registered pension scheme under section 153 of the Finance Act 2004”.

(3) In section 24(8) (ways of giving effect to protected rights)(**18**) in the definition of “the termination date” omit the words after “arrangement”.

- (4) In section 24A (requirements for interim arrangements)(**19**)—

- (a) in subsection (1) at the end insert “but the member, widow, widower or surviving civil partner may forbear to receive such payments”;

- (b) in subsection (2) omit the words after “partner”;

- (c) in subsection (3) for the words after “months” substitute

“(“the aggregate payment”) must not be greater than—

- (a) the amount specified by pension rule 5 in subsection (1) of section 165 of the Finance Act 2004 (pension rules) for the unsecured pension year which ends in that period of twelve months, where the member has not reached the age of 75,

- (b) the amount specified by pension rule 7 in that subsection for the alternatively secured pension year which ends in that period of twelve months, where the member has reached the age of 75,

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**(16)** 1993 c. 49.

**(17)** Subsection (5A) was inserted by Article 260 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)).

**(18)** Section 24(8) was added by Article 139 of the Pensions (Northern Ireland) Order 1995(S.I. 1995/3213 (N.I. 22)) and amended by Articles 1(b) and 2(1) of, and paragraph 10(c) of Schedule 1 to, S.R. 2005 No. 433.

**(19)** Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995(S.I. 1995/3213 (N.I. 22)) and amended by Articles 1(cb) and 2(1) of, and paragraph 11 of Schedule 1 to, S.R. 2005 No. 433.

- (c) the amount specified by pension death benefit rule 4 in subsection (1) of section 167 of the Finance Act 2004 (pension death benefit rules) for the unsecured pension year which ends in that period of twelve months, where subsection (2) applies and the member’s widow, widower or surviving civil partner has not reached the age of 75, or
- (d) the amount specified by pension death benefit rule 6 in that subsection for the alternatively secured pension year, where subsection (2) applies and the member’s widow, widower or surviving civil partner has reached the age of 75.

This is subject to subsection (3A).”;

- (d) after subsection (3) insert—

“(3A) The proportion of the aggregate payment which gives effect to a person’s protected rights must not be greater than the proportion of the value of the rights to money purchase benefits under the scheme that is attributable to the protected rights.”; and

- (e) omit subsections (4) and (5).

(5) In section 29 (tax requirements to prevail over certification requirements) for “a scheme must comply if it is to qualify for tax-exemption or tax-approval” substitute “a registered pension scheme must comply under Part 4 of the Finance Act 2004”.

- (6) In section 159 (exemption of certain schemes from rule against perpetuities)—

- (a) for subsection (4)(b) substitute—

“(b) to be a registered pension scheme under section 153 of the Finance Act 2004 or to be a scheme that may be expected to satisfy the conditions for registration.”; and

- (b) omit subsection (5).

(7) In section 176(1) (general interpretation) omit the definitions of “tax-exemption” and “tax-approval”.

#### **Amendment of the Coal Industry Act 1994**

**9.** In Schedule 5 to the Coal Industry Act 1994 (pensions provision in connection with restructuring) **(20)**—

- (a) in paragraph 1(1), in the definition of “the relevant enactments” for “Chapter 1 of Part 14 of the Income and Corporation Taxes Act 1988 (retirement benefit schemes)” substitute “Part 4 of the Finance Act 2004 (pension schemes etc)”;
- (b) in paragraphs 2(3)(i), 3(7)(b) and 4(2)(c)(ii) before “approved” in each place it occurs insert “registered or”.

#### **Amendment of the Pensions Act 1995**

**10.**—(1) The Pensions Act 1995**(21)** is amended as follows.

- (2) In section 51 (annual increase in rate of pension), for subsection (1)(a)(i), substitute—

“(i) is a registered pension scheme under section 153 of the Finance Act 2004, and ”.

- (3) In section 66A(6)(b) (prohibition on different rules for overseas residents etc.)**(22)**, for “approval” substitute “registration”.

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**(20)** 1994 c. 21.

**(21)** 1995 c. 26.

**(22)** Section 66A was inserted by section 55 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(4) In section 69(3)(b) (grounds for applying for modifications), for the words “an exempt approved scheme (within the meaning given by section 592(1) of the Taxes Act 1988)” substitute “a registered pension scheme under section 153 of the Finance Act 2004”.

(5) In section 76(1) (excess assets on winding up), for paragraph (a) substitute—

“(a) it is a registered pension scheme under section 153 of the Finance Act 2004,”.

(6) Section 77 (excess assets remaining after winding up: power to distribute) is repealed.

(7) In section 124(1) (interpretation of Part 1), in the definition of “pensioner member”(23) omit “and who is not an active member of the scheme”.

### **Amendment of the Pensions (Northern Ireland) Order 1995**

**11.**—(1) The Pensions (Northern Ireland) Order 1995(24) is amended as follows.

(2) In Article 51(1)(a)(annual increase in rate of pension), for head (i) substitute—

“(i) is a registered pension scheme under section 153 of the Finance Act 2004, and ”.

(3) In Article 66A(6)(b) (prohibition on different rules for overseas residents etc.)(25), for “approval” substitute “registration”.

(4) In Article 69(3) (grounds for applying for modifications)—

(a) in sub-paragraph (a) for the words “an exempt approved scheme (within the meaning given by section 592(1) of the Taxes Act 1988) substitute “a registered pension scheme under section 153 of the Finance Act 2004” and

(b) in sub-paragraph (b) for the words “an exempt approved scheme (within the meaning given by section 592(1) of the Taxes Act 1988)” substitute “a registered pension scheme under section 153 of the Finance Act 2004”.

(5) In Article 76(1) (excess assets on winding up), for sub-paragraph (a) substitute—

“(a) it is a registered pension scheme under section 153 of the Finance Act 2004,”.

(6) Article 77 (excess assets remaining after winding up: power to distribute) is revoked.

(7) In Article 121(1) (interpretation of Part 1), in the definition of “pensioner member”(26) omit the words “and who is not an active member of the scheme”.

### **Amendment of the Jobseekers Act 1995**

**12.** In section 35(1) of the Jobseekers Act 1995 (interpretation) (27), in the definition of “personal pension scheme” for paragraphs (b) and (c) substitute—

“(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004; and

(c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;”.

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(23) The definition of “pensioner member” was amended by paragraph 8(3) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c. 19).

(24) S.I. 1995/3213 (N.I. 22).

(25) Article 66A was inserted by section 51 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4).

(26) S.I. 1995/3213 (N.I. 22). Those words were inserted by paragraph 5(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4).

(27) 1995 c. 18.

### **Amendment of the Jobseekers (Northern Ireland) Order 1995**

**13.** In article 2(2) of the Jobseekers (Northern Ireland) Order 1995 (interpretation) (**28**), in the definition of “personal pension scheme” for paragraph (b) and (c) substitute—

- “(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004; and
- (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;”.

### **Amendment of the Greater London Authority Act 1999**

**14.** In Schedule 32 to the Greater London Authority Act 1999 (London Regional Transport Pensions etc. Schemes)(**29**), in paragraph 2—

- (a) in sub-paragraph (1)(b) after “continues to be” insert “registered or”; and
- (b) in sub-paragraph (2), in the definition of “relevant enactments” for paragraph (a) substitute—
  - “(a) Part 4 of the Finance Act 2004 (pension schemes etc); and”.

### **Amendment of the Welfare Reform and Pensions Act 1999**

**15.**—(1) The Welfare Reform and Pensions Act 1999(**30**) is amended as follows.

(2) In section 1 (meaning of “stakeholder pension scheme”)—

- (a) in subsection (8)—
  - (i) omit “, except in so far as is necessary to ensure that the scheme has tax-exemption or tax-approval (within the meaning of the 1993 Act),”;
  - (ii) for paragraph (b) substitute—
    - “(b) contracts and schemes that became registered pension schemes by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004 (pension schemes etc.: transitional provisions and savings)”;
- (b) for subsection (9) substitute—
  - “(9) The eighth condition is that the scheme is a registered pension scheme under section 153 of the Finance Act 2004 (registration of pension schemes).”.

(3) In section 11 (effect of bankruptcy on pension rights: approved arrangements)—

- (a) in subsection (2)—
  - (i) for paragraph (a) substitute—
    - “(a) a pension scheme registered under section 153 of the Finance Act 2004;”;
  - (ii) omit paragraphs (b), and (d) to (f);
  - (iii) in paragraph (c) for “a retirement benefits scheme” substitute “an occupational pension scheme”; and
  - (iv) for paragraph (g) substitute—

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(28) S.I. 1995/2705 (N.I. 15).

(29) 1999 c. 29.

(30) 1999 c. 30.

- “(g) an annuity purchased for the purpose of giving effect to rights under a scheme falling within paragraph (a), including an annuity in payment before 6th April 2006, giving effect to rights under any scheme approved—
- (i) before that date under Chapters 1, 3 or 4 of Part 14 of the Taxes Act; or
  - (ii) any relevant statutory scheme, as defined in section 611 of that Act;”.
- (b) omit subsection (3);
- (c) for subsection (4) substitute—
- “(4) Subsection (5) applies if—
- (a) at the time when a bankruptcy order is made against a person, an appeal against a decision not to register a pension scheme has been made under section 156 of the Finance Act 2004, and
  - (b) the decision of the General or Special Commissioners (see section 156(3) of that Act) is to uphold the decision of Her Majesty’s Revenue and Customs not to register the scheme.”;
- (d) in subsection (5)(a) after “the” insert “General or Special”;
- (e) for subsection (6) substitute—
- “(6) Subsection (7) applies if, at any time after a bankruptcy order is made against a person Her Majesty’s Revenue and Customs—
- (a) give notice withdrawing registration of the pension scheme under section 157 of the Finance Act 2004, and
  - (b) the date specified as being that from which de-registration occurs under subsection (4) of that section (“the de-registration date”) is the date from which the scheme ceases to be a registered pension scheme.”;
- (f) in subsection (8) for “withdrawal date” substitute “de-registration date”;
- (g) in subsection (11) for paragraphs (a) and (b) substitute—
- (a) “occupational pension scheme” has the meaning given in section 150(5) of the Finance Act 2004;
  - (b) “pension scheme” has the meaning given in section 150(1) of the Finance Act 2004 and “registered pension scheme” means a pension scheme registered under section 153 of the Finance Act 2004;”.
- (4) In sections 26(1) (interpretation of Part 3) and 46(1) (interpretation of Chapter 1 of Part 4) for the definition of “retirement annuity contract” substitute—
- ““retirement annuity contract” means an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which became a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;”;
- (5) In paragraph 7(1) of Schedule 5 (pension credits: mode of discharge)—
- (a) for “approved for the purposes of Part 14 of the Income and Corporation Taxes Act 1988,” substitute “a registered pension scheme under section 153 of the Finance Act 2004;”;
  - (b) in sub-paragraph (a) for “approved” substitute “registered”.



## **Amendment of the Welfare Reform and Pensions (Northern Ireland) Order 1999**

16.—(1) The Welfare Reform and Pensions (Northern Ireland) Order 1999(31) is amended as follows.

- (2) In Article 3 (meaning of “stakeholder pension scheme”)
- (a) in paragraph (8)—
    - (i) omit “, except in so far as is necessary to ensure that the scheme has tax-exemption or tax-approval (within the meaning of the Pension Schemes Act),”;
    - (ii) for paragraph (b) substitute “contracts and schemes that became registered pension schemes by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;”
  - (b) for paragraph (9) substitute—

“(9) The eighth condition is that the scheme is a registered pension scheme under section 153 of the Finance Act 2004.”.
- (3) In Article 12 (effect of bankruptcy on pension rights: approved arrangements)—
- (a) in paragraph (2)—
    - (i) for sub-paragraph (a) substitute—

“(a) a pension scheme registered under section 153 of the Finance Act 2004;”
    - (ii) omit sub-paragraphs (b), and (d) to (f);
    - (iii) in sub-paragraph (c) for “a retirement benefits scheme” substitute “an occupational pension scheme”; and
    - (iv) for sub-paragraph (g) substitute—

“(g) an annuity purchased for the purpose of giving effect to rights under a scheme falling within paragraph (a), including an annuity in payment before 6th April 2006, giving effect to rights under any scheme approved—

      - (i) before that date under Chapters 1, 3 or 4 of Part 14 of the Taxes Act; or
      - (ii) any relevant statutory scheme, as defined in section 611 of that Act;”;
  - (b) omit paragraph (3);
  - (c) for paragraph (4) substitute—

“(4) Paragraph (5) applies if—

    - (a) at the time when a bankruptcy order is made against a person, an appeal against a decision not to register a pension scheme has been made under section 156 of the Finance Act 2004, and
    - (b) the decision of the General or Special Commissioners, (see section 156(3) of that Act), is to uphold the decision of Her Majesty’s Revenue and Customs not to register the scheme.”;
  - (d) in paragraph (5)(a) after “the” insert “General or Special”.
  - (e) for paragraph (6) substitute—

“(6) Paragraph (7) applies if, at any time after a bankruptcy order is made against a person, Her Majesty’s Revenue and Customs give notice—

- (a) withdrawing registration of the pension scheme under section 157 of the Finance Act 2004, and
- (b) the date specified as being that from which de-registration occurs under section 157(4) of that Act (“the de-registration date”), is the date from which the scheme ceases to be a registered pension scheme.”;
- (f) in paragraph (8) for “withdrawal date” substitute “de-registration date”;
- (g) in paragraph (11)—
  - (i) for sub-paragraph (a) substitute—
    - “(a) “occupational pension scheme” has the meaning given in section 150(5) of the Finance Act 2004;”;
  - (ii) for paragraph (b) substitute—
    - “(b) “pension scheme” has the meaning given in section 150(1) of the Finance Act 2004 and “registered pension scheme” means a pension scheme registered under section 153 of the Finance Act 2004;”.
- (4) In Articles 23(1) (interpretation of Part IV) and 43(1) (interpretation of Chapter I) for the definition of “retirement annuity contract” substitute—
  - ““retirement annuity contract” means an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which became a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004.”.
- (5) In paragraph 7(1) of Schedule 5 (pension credits: mode of discharge)—
  - (a) for “approved for the purposes of Part 14 of the Income and Corporation Taxes Act 1988,” substitute “a registered pension scheme under section 153 of the Finance Act 2004;”;
  - (b) in sub-paragraph (a) for “approved” substitute “registered”.

#### **Amendment of the Financial Services and Markets Act 2000**

17. In section 112(2)(d) of the Financial Services and Markets Act 2000 (effect of order sanctioning business transfer)(**32**) for “retirement benefits scheme (within the meaning of section 611 of the Income and Corporation Taxes Act 1988)” substitute “occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004)”.

#### **Amendment of the Pensions Act 2004**

18.—(1) The Pensions Act 2004(**33**) is amended as follows.

(2) In Schedule 3 (restricted information held by the regulator: certain permitted disclosures to facilitate exercise of functions), in the “functions” column opposite “the Commissioners of Inland Revenue or their officers”—

- (a) in paragraph (e) omit “or”;
- (b) at the end of paragraph (f) insert “or”; and
- (c) after paragraph (f) add—
  - “(g) Part 4 of the Finance Act 2004 (c. 12).”.

(3) Paragraph 63 of Schedule 12 (minor and consequential amendments) is repealed.

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(32) 2000 c. 8.

(33) 2004 c. 35.

### **Amendment of the Pensions (Northern Ireland) Order 2005**

19.—(1) The Pensions (Northern Ireland) Order 2005(34) is amended as follows.

(2) In Schedule 3 (restricted information held by the regulator: certain permitted disclosures to facilitate exercise of functions), in the “functions” column opposite “the Commissioners of Inland Revenue or their officers”—

- (a) in paragraph (e) omit “or”;
- (b) at the end of paragraph (f) insert “or”; and
- (c) after paragraph (f) add—
  - “(g) Part 4 of the Finance Act 2004 (c. 12).”.

(3) Paragraph 63 of Schedule 12 (minor and consequential amendments) is repealed.

## **PART 2**

### **Consequential Amendments to Secondary Legislation**

#### **Amendment of the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990**

20.—(1) The Income Tax (Building Societies) (Dividends and Interest) Regulations 1990(35) are amended as follows.

(2) In regulation 4(1) (gross payments)—

- (a) for sub-paragraph (f) substitute—
  - “(f) a payment to a registered pension scheme within the meaning of section 150(2) of the Finance Act 2004;”;
- (b) omit sub-paragraph (k).

#### **Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

21.—(1) The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(36) are amended as follows.

(2) Omit regulation 7.

(3) In regulation 13(2)(a)(i) (death before giving effect to protected rights: interim arrangements for widow, widower or surviving civil partner)—

- (a) for “(5)” substitute “(3A)”; and
- (b) omit “and regulations made under those subsections”.

#### **Amendment of the Manufactured Payments and Transfer of Securities (Tax Relief) Regulations 1995**

22.—(1) The Manufactured Payments and Transfer of Securities (Tax Relief) Regulations 1995(37) are amended as follows.

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(34) S.I. 2005/255 (N.I. 1)

(35) S.I. 1990/2231. Sub-paragraph (f) was previously substituted by regulation 3(a) of S.I. 1994/296.

(36) S.I. 1996/1537

(37) S.I. 1995/3036.

- (2) In regulation 3(1)—
- (a) in sub-paragraph (a)—
- (i) for “a scheme” substitute “a pension scheme”; and
- (ii) for “592(2) or 643(2) of the Taxes Act” substitute “186(1) of the Finance Act 2004”; and
- (b) in sub-paragraph (b) for the words following “section” substitute “613(4)(a) or 614(2), (3) or (4) of the Taxes Act,”.
- (3) In regulation 4(1)—
- (a) in sub-paragraph (a)—
- (i) for “a scheme” substitute “a pension scheme”; and
- (ii) for “592(2) or 643(2) of the Taxes Act” substitute “186(1) of the Finance Act 2004”; and
- (b) in sub-paragraph (b) for the words following “section” substitute “613(4)(a) or 614(2), (3) or (4) of the Taxes Act,”.

### **Amendment of the Income Tax (Pension Funds Pooling Schemes) Regulations 1996**

**23.**—(1) The Income Tax (Pension Funds Pooling Schemes) Regulations 1996(**38**) are amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) in paragraph (1)—
- (i) in the definition of “employee” and “employer” substitute—  
““employee” and “employer” have the meaning given in section 279(1) of the Finance Act 2004;”;
- (ii) for the definition of “overseas scheme” substitute—  
““recognised overseas pension scheme” has the meaning given in section 150(8) of the 2004 Act;”;
- (iii) omit the definitions of “retirement benefits scheme” and “scheme”;
- (iv) after the definition of “pension funds pooling scheme” insert—  
““registered pension scheme” in section 150(2) of the 2004 Act, (for the purpose of these Regulations), must also be an “occupational pension scheme” within the meaning of section 150(5) of that Act;”;
- (v) after the definition of “pension funds pooling scheme” insert—  
““pension scheme” has the meaning given by section 150(1) of the 2004 Act;”;
- and
- (vi) after the definition of “1992 Act” insert—  
““2004 Act” means the Finance Act 2004.”;
- (b) omit paragraph (2); and
- (c) in paragraphs (4)(**39**) and (5) for “an exempt approved scheme” wherever it appears substitute “a registered pension scheme”.
- (3) In regulations 2(4), 2(5)(c), 4(3)(a)(iii) (description of a pension funds pooling scheme), 9(4)(b) (duties of trustee of a pension funds pooling scheme—participants ceasing to be eligible to

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**(38)** S.I. 1996/1585.

**(39)** Regulation 2(4) was amended by article 145(3) of S.I. 2001/3629.

participate), 9(5)(d)(ii), 9(7), 11(3) (duties of trustee of a pension funds pooling scheme—annual provision of information), 11(4), 11(5) and 11(5)(b) for “an overseas scheme” wherever those words appear substitute “a recognised overseas pension scheme”.

(4) In regulation 4(3)(a)(i) (description of a pension funds pooling scheme) for “an exempt approved scheme” substitute “a registered pension scheme”.

(5) In regulation 7 (approval of participants)—

(a) in paragraph (1) omit “or (4)”;

(b) in paragraph (2) for “an exempt approved scheme” substitute “a registered pension scheme”;

(c) in paragraph (3)—

(i) for the words “an overseas scheme other than a scheme falling within paragraph (4) below” substitute “a recognised overseas pension scheme”;

(ii) for sub-paragraphs (f) and (g) substitute—

“(f) either—

(i) evidence demonstrating that the scheme fulfils the requirements set out in regulations 2 and 3 of the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006<sup>(40)</sup>; or

(ii) in respect of information which has already been provided in accordance with section 169 of the Finance Act 2004 (recognised transfers)<sup>(41)</sup> to an officer of Her Majesty’s Revenue and Customs, notification of any reference used by an officer of Her Majesty’s Revenue and Customs in respect of that information;” and

(iii) omit sub-paragraphs (h) to (o);

(d) omit paragraph (4); and

(e) for paragraph (6)(b) substitute—

“(b) in the case of a superannuation fund which is before the Board for the purposes referred to in regulation 2(3)(b).”.

(6) In regulation 9—

(a) in paragraphs (2), (4)(a), (5)(b), (5)(d)(i), (12) and 11(2) and (5) for “an exempt approved scheme” wherever those words appear substitute “a registered pension scheme”; and

(b) in paragraph (7) omit the words “(whether or not the participant is an overseas scheme to which regulation 7(4) applies)”.

(7) In regulation 11(3)(b) and (4)(a) for “(g) and, where the scheme is not one to which regulation 7(4) applies, sub-paragraphs (h) to (o)” substitute “(f)”.

### **Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997**

**24.**—(1) The Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997<sup>(42)</sup> are amended as follows.

(2) Omit regulation 7.

<sup>(40)</sup> S.I. 2006/206.

<sup>(41)</sup> Section 169 is amended by paragraphs 1 and 36 of Schedule 1 in section 101 of the Finance Act 2005 (c. 7).

<sup>(42)</sup> S.R. 1997/56

(3) In regulation 13(2)(a)(i) (death before giving effect to protected rights: interim arrangements for widow, widower or surviving civil partner)—

- (a) for “(5)” substitute “(3A)”; and
- (b) omit “and regulations made under those subsections”.

#### **Amendment of the Education (Student Loans) (Repayment) Regulations 2000**

**25.**—(1) The Education (Student Loans) (Repayment) Regulations 2000(43) are amended as follows.

- (2) In regulation 15 (time for and amount of repayments)—
  - (a) in paragraph 5(f) after “(pension schemes, social security benefits, life annuities etc.)” add “or Part 4 of the Finance Act 2004 (pension schemes etc.)”; and
  - (b) in paragraph (6)—
    - (i) at the end of sub-paragraph (f) add “and”; and
    - (ii) omit sub-paragraphs (h) and (i).

#### **Amendment of the Tax Credits (Definitions and Calculation of Income) Regulations 2002**

**26.**—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(44) are amended as follows.

- (2) In regulation 2(2) (interpretation)—
  - (a) in the definition of “pension fund holder”—
    - (i) for “personal pension scheme or a retirement annuity contract” substitute “registered pension scheme”; and
    - (ii) omit “or contract” at the end;
  - (b) omit the definition of “personal pension scheme”;
  - (c) after the definition of “qualifying young person” insert—
    - “registered pension scheme“ has the meaning given by section 150(2) of the Finance Act 2004;”; and
  - (d) omit the definitions of “retirement annuity contract” and “retirement benefits scheme”.
- (3) In regulation 3(7) (calculation of income of claimant)(45)—
  - (a) at the end of sub-paragraph (b) add “and”;
  - (b) for sub-paragraph (c) substitute—
    - “(c) the amount of any contribution made by the claimant, or in the case of a joint claim, by either or both of the claimants to a registered pension scheme together with the amount of any tax relief due on those contributions.”; and
  - (c) omit sub-paragraph (d).
- (4) In regulation 5(1) (pension income)—
  - (a) for sub-paragraphs (d) and (e) substitute—
    - “(d) any pension, annuity or income withdrawal to which section 579A(46) of ITEPA applies;

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(43) S.I. 2000/944.

(44) S.I. 2002/2006.

(45) Regulation 3(7)(c) was amended by regulation 5(7)(d) of S.I. 2003/732 and by regulation 4(4)(b) of S.I. 2003/2815.

(46) 2003 c. 1. Section 579A was inserted by paragraph 6 of Schedule 31 to the Finance Act 2004 (c. 12: “the 2004 Act”).

- (e) any unauthorised member payments to which section 208(2)(a) or (b) of the Finance Act 2004 applies;” and
- (b) omit sub-paragraphs (g), (h), (i) and (j);
- (c) for sub-paragraph (k) substitute—
  - “(k) any annuity paid under a retirement annuity contract to which Chapter 9 of Part 9 of ITEPA(47) applies;”;
- (d) in Table 2, in item 10, for “section 637 of ITEPA” substitute “section 636A(48) of ITEPA”.

### **Amendment of the Income Tax (Pay As You Earn) Regulations 2003**

27.—(1) The Income Tax (Pay As You Earn) Regulations are amended as follows.

(2) In regulation 3(2) of the Income Tax (Pay As You Earn) Regulations 2003 (net PAYE income)(49) for the definition of “allowable pension contributions” substitute—

“allowable pension contributions“ means any contribution under a registered pension scheme which is withheld from the payment of PAYE income which is allowed to be deducted from employment income by the sponsoring employer under section 193(2) of the Finance Act 2004 (relief under net pay arrangements);

“registered pension scheme” and “sponsoring employer” have the meanings given by section 150(2) and (6) respectively, of the Finance Act 2004.”.

(3) In regulation 15(3)(c) for “section 592(7) or 594(1) of ICTA (exempt approved schemes and exempt statutory schemes)(50).” substitute “sections 188 to 195 of the Finance Act 2004 (members' contributions)(51).”.

14th March 2006

*Tom Watson*  
*Vernon Coaker*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(47) Part 9 was repealed by paragraph 7 of Schedule 31 to the 2004 Act subject to the savings in paragraph 43 of Schedule 36 to that Act.

(48) Section 636A was inserted by paragraph 11 of Schedule 31 to the 2004 Act.

(49) S.I. 2003/2682.

(50) 1988 c. 1. Sections 592 and 594 were repealed by Part 3 of Schedule 42 to the 2004 Act.

(51) 2004 c. 12. Section 189 was amended by paragraph 645 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 c. 5.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends primary and secondary legislation as a consequence of the coming into force of Part 4 of the Finance Act 2004 (c. 12) as it relates to the taxation of pension schemes.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8 April 2004, and is available on the Inland Revenue website at [www.inlandrevenue.gov.uk/ria/simplifying-pensions.pdf](http://www.inlandrevenue.gov.uk/ria/simplifying-pensions.pdf) or obtained by writing to HM Revenue and Customs, Capital & Savings Ministerial Correspondence Unit, 1st Floor, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.