

1990 No. 2277

PENSIONS

The Occupational and Personal Pension Schemes (Levy)
Regulations 1990

<i>Made</i> - - - - -	<i>15th November 1990</i>
<i>Laid before Parliament</i>	<i>23rd November 1990</i>
<i>Coming into force</i>	<i>1st January 1991</i>

The Secretary of State for Social Security, in exercise of the powers conferred by section 166(1) to (3A) of the Social Security Act 1975^(a) and section 60ZA of the Social Security Pensions Act 1975^(b), and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made by virtue of or consequential upon section 14 of, and paragraph 12 of Schedule 4 to, the Social Security Act 1990 and which is made before the end of the period of 6 months beginning with the coming into force of those provisions^(c), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Levy) Regulations 1990 and shall come into force on 1st January 1991.

(2) In these Regulations—

“active member” means—

- (i) a member of a registrable scheme by or in respect of whom contributions are payable to the scheme; or
- (ii) in the case of a registrable scheme which is an occupational pension scheme, a member whose employment in the United Kingdom qualifies him for benefits under the scheme (whether or not contributions are currently payable to the scheme by or in respect of him) other than only benefits payable on his death while in that employment;

“address of the scheme” means the place in the United Kingdom, or if more than one, the principal place, at which the management of the registrable scheme is conducted;

“employment in the United Kingdom” has the same meaning as in regulation 1(4) of the Register Regulations;

“number of active members” means—

- (a) in the case of a scheme which has been established for not less than one scheme year, the number of active members at the end of the scheme year immediately preceding the period in respect of which the levy in question is payable; and

^(a) 1975 c.14. Section 166(1) to (3A) applies to certain powers to make regulations under the Social Security Pensions Act 1975 by virtue of section 66(2) of that Act.

^(b) 1975 c.60. Section 60ZA was inserted by paragraph 12 of Schedule 4 to the Social Security Act 1990 (c.27).

^(c) See the Social Security Act 1986 (c.50), section 61(5) as substituted by the Social Security Act 1989 (c.24), Schedule 8, paragraph 12(3). Paragraph 12 of Schedule 4 to the Social Security Act 1990, and section 14 of that Act in so far as it relates to that paragraph, were brought into force by S.I. 1990/1446.

(b) in any other case, the number of active members at the date at which the scheme was established;

“paid up or frozen scheme” means a registrable scheme under which benefits continue to be payable to existing members and to which—

- (a) no new members may be admitted;
- (b) no further contributions are payable by or in respect of existing members; and
- (c) no further benefits accrue to existing members although benefits which have already accrued to them may be increased;

“Register Regulations” means the Register of Occupational and Personal Pension Schemes Regulations 1990(a);

“registrable scheme” means an occupational or personal pension scheme—

- (a) which either—
 - (i) is established in the United Kingdom; or
 - (ii) has a place at which its management is conducted in the United Kingdom and has a representative appointed to carry out the functions of a trustee or manager in the United Kingdom;
- (b) which either—
 - (i) is a scheme in respect of which a person has applied for, or received, the approval of the Board of Inland Revenue for the purposes of section 590 or section 591 (other than subsection (2)(g)) of the Income and Corporation Taxes Act 1988(b) (conditions for approval of retirement benefit schemes and discretionary approval), or for the purposes of Chapter IV of Part XIV of that Act (personal pensions schemes); or
 - (ii) is a scheme which is a public service pension scheme; and
- (c) is not a scheme which—
 - (i) has fewer than 2 active members; or
 - (ii) only provides benefits on the death of a member while in employment;

“registration year” means a period of 12 months beginning on 1st April;

“scheme year”, in relation to a registrable scheme, means whichever of the following periods the trustees of the scheme select—

- (a) a year specified for the purposes of the scheme—
 - (i) in any document comprising the scheme or which is included among the documents comprising it; or
 - (ii) in the rules of the scheme;
- (b) a calendar year;
- (c) the 12 months ending with 31st March;
- (d) the 12 months ending with 5th April,

and also includes, in a case where the trustees have selected a period (“new scheme year”) to replace a previously selected period (“old scheme year”), a period exceeding 12 months but not exceeding 24 months between the last old scheme year and the first new scheme year;

“the Act” means the Social Security Pensions Act 1975; and

“trustees”, in the case of a registrable scheme which is not set up under a trust or which is established outside the United Kingdom, means the person who is treated as the administrator of the scheme for the purposes of Chapter I or Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.

The levy on registrable schemes

2.—(1) Subject to regulation 5 of these Regulations, for the purpose of meeting some or all of the expenditure under section 57B, Part IVA and section 59K of the Act(c) the

(a) S.I. 1990/

(b) 1988 c.1.

(c) Section 57B was inserted by paragraph 11 of Schedule 4 to the Social Security Act 1990; Part IVA was inserted by Schedule 3 to that Act and section 59K was inserted by section 13 to that Act.

trustees of every registrable scheme other than a paid up or frozen scheme shall be liable to pay a levy to the Secretary of State.

(2) The levy shall be payable in respect of each registration year.

(3) Any person who is responsible for the funding or management of a registrable scheme may discharge any liability which is imposed on the trustees of that scheme under paragraph (1) above by paying, in the manner and at the time required by these Regulations, the amount for which those trustees are liable.

(4) If a registrable scheme—

(a) commences after the beginning of a period in respect of which the levy is payable; or

(b) is wound up or becomes a paid-up or frozen scheme during a period in respect of which the levy is payable;

the levy shall nevertheless be payable in full for that period.

Amount of the levy

3. The levy shall be of the following amounts—

(a) where the number of active members of a registrable scheme is at least 2 but not greater than 6, £5;

(b) where the number of active members of a registrable scheme is at least 7 but not greater than 99, £12;

(c) where the number of active members of a registrable scheme is at least 100 but not greater than 999, the greater of—

(i) the amount calculated by multiplying 10p by the number of active members in that scheme, or

(ii) £12;

(d) where the number of active members of a registrable scheme is at least 1,000 but not greater than 4,999, the greater of—

(i) the amount calculated by multiplying 8p by the number of active members in that scheme, or

(ii) £100;

(e) where the number of active members of a registrable scheme is at least 5,000 but not greater than 9,999, the greater of—

(i) the amount calculated by multiplying 6p by the number of active members in that scheme, or

(ii) £400;

(f) where the number of active members of a registrable scheme is at least 10,000, the greater of—

(i) the amount calculated by multiplying 4p by the number of active members in that scheme, or

(ii) £600.

Payment of the levy

4.—(1) The levy shall be remitted to the registrar of occupational and personal pension schemes who shall collect the same on behalf of the Secretary of State.

(2) Subject to regulation 6 of these Regulations, the levy shall be payable in advance for a period of 3 registration years at a time.

Avoidance of duplication of payments

5. Where, but for this regulation, a levy would be payable in respect of the same registrable scheme under both these Regulations and any equivalent provision which has effect in Northern Ireland, the levy shall only be payable under these Regulations where the address of the scheme is in Great Britain.

Time of payment: transitional provisions

6.—(1) Notwithstanding regulation 4(2) of these Regulations the first payment of the levy shall be as follows—

- (a) in the case of a scheme which is established before 1st May 1991 the first payment of the levy shall be made at the time the trustees supply information to the registrar in accordance with regulation 4 of the Register Regulations, and if that payment is made before 1st April 1992 it shall be in respect of the registration year beginning on 1st April 1991 only, but otherwise it shall be in respect of the period of 3 registration years beginning on 1st April 1991;
- (b) in the case of a scheme which is established after 30th April 1991 but before 1st April 1992 the first payment of the levy shall be made at the time the trustees supply information to the registrar in accordance with regulation 4 of the Register Regulations and shall be made in respect of the registration year beginning on 1st April 1991 only; and
- (c) in the case of a scheme which is established after 31st March 1992 the first payment of the levy shall be made at the time the trustees supply information to the registrar in accordance with regulation 4 of the Register Regulations and shall be made in respect of a period of 3 registration years beginning with the registration year in which the scheme is established.

(2) Where a payment is made in accordance with paragraph (1)(a) or (b) above in respect only of the registration year which begins on 1st April 1991, the registrar shall assign a letter, "A", "B" or "C", to the scheme, the first application to be received being assigned the letter "A", the second application the letter "B", the third application the letter "C", the fourth application the letter "A", and so on.

(3) Notwithstanding regulation 4(2) of these Regulations the second payment of the levy shall be made in accordance with the following paragraphs.

(4) If a scheme has been assigned the letter "A" the second payment of the levy in respect of that scheme shall be for a period of one registration year.

(5) If a scheme has been assigned the letter "B" the second payment of the levy in respect of that scheme shall be for a period of 2 registration years.

(6) If the scheme has been assigned the letter "C" the second payment of the levy in respect of that scheme shall be for a period of 3 registration years.

Signed by authority of the Secretary of State for Social Security.

Gillian Shephard
Parliamentary Under-Secretary of State,
Department of Social Security

15th November 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for a levy towards meeting the cost of the Pensions Ombudsman, the register of occupational and personal pension schemes and certain grants made to advisory bodies by the Occupational Pensions Boards.

By regulation 2 the trustees of a registrable scheme are required to pay a levy. Regulation 3 sets out how the amount of that levy is to be determined. Regulation 4 makes provision for the payment of the levy. Regulation 5 makes provision to avoid duplication of payments where a levy is payable under equivalent provisions which have effect in Northern Ireland. Regulation 6 contains transitional provisions.

These Regulations are made by virtue of, or are consequential upon, the coming into force of section 14 of, and paragraph 12 of Schedule 4 to, the Social Security Act 1990 and are made before the end of the period of 6 months beginning with the commencement of those provisions and therefore, under section 61(5) of the Social Security Act 1986, no proposals to make them have been submitted to the Occupational Pensions Board.