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STATUTORY INSTRUMENTS

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**1995 No. 3103**

**The Retirement Benefits Schemes  
(Information Powers) Regulations 1995**

**PART II**

**INFORMATION REQUIRED WITHOUT NOTICE**

**Prescribed person**

**3.** For the purposes of this Part of these Regulations, “the prescribed person” in relation to a retirement benefits scheme means—

- (a) the person who is, or the persons who are, for the time being the administrator in relation to the scheme by virtue of section 611AA of the Taxes Act<sup>(1)</sup>; or
- (b) where section 606(1) of the Taxes Act<sup>(2)</sup> applies at any time in relation to the scheme, the person who is, or the persons who are, by virtue of that section responsible at that time for the discharge of all duties imposed on the administrator under Chapter I (whenever arising) and liable for any tax due from the administrator in the administrator’s capacity as such (whenever falling due); or
- (c) where section 599(7) of the Taxes Act applies in relation to an insurance company, that insurance company.

**Actuarial valuation reports—self-administered schemes and insured schemes**

**4.—(1)** The prescribed person in relation to a self-administered scheme or an insured scheme shall furnish to the Board, at the time prescribed by paragraph (2) below, any valuation report of the scheme’s assets in relation to its liabilities having an effective date that falls on or after the date of coming into force of these Regulations, where the report—

- (a) was commissioned for the purposes of the scheme, and
- (b) consists of an actuarial valuation determined and dated and signed by an actuary.

**(2)** The time prescribed—

- (a) where the valuation report relates to a large self-administered scheme or an insured scheme, is any time not later than two years after the date stated to be the effective date in the valuation;
- (b) where the valuation report relates to a small self-administered scheme, is any time not later than one year after the date stated to be the effective date in the valuation.

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(1) Section 611AA was inserted by section 103 of the Finance Act 1994.

(2) Section 606 was substituted by section 104 of the Finance Act 1994.

### **Investment and borrowing transactions of small self-administered schemes**

5.—(1) The prescribed person in relation to a small self-administered scheme shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) as—

- (a) is specified on the relevant form supplied by the Board, and
- (b) relates to any transaction that is—
  - (i) of a kind specified in paragraph (3) below, and
  - (ii) entered into by or on behalf of the trustees or the administrator of the scheme on or after the date of coming into force of these Regulations.

(2) The time prescribed is any time not later than 90 days after the date of the transaction in question.

(3) The transactions specified in this paragraph are—

- (a) the acquisition or disposal of land;
- (b) the lending of money to an employer in relation to the scheme or any company associated with him;
- (c) the acquisition or disposal of shares in an employer in relation to the scheme or any company associated with him;
- (d) the acquisition or disposal of shares in an unlisted company;
- (e) the borrowing of money;
- (f) the purchase, sale or lease from or to an employer in relation to the scheme, or any company associated with him, of any asset other than one specified in sub-paragraph (a), (c) or (d).

(4) References in paragraph (3) above to a company associated with an employer shall be construed in accordance with regulation 2(9) of the 1991 Regulations.

### **Participation of employers in a scheme**

6.—(1) The prescribed person in relation to an approved scheme shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to an event specified in paragraph (3) below and occurring on or after the date of coming into force of these Regulations as is specified on the relevant form supplied by the Board.

(2) The time prescribed is any time not later than 180 days after the end of the scheme year in which the event in question occurs.

(3) The events specified in this paragraph are—

- (a) the admission of a new employer as a participant in the scheme;
- (b) in relation to any employer who is a participant in the scheme—
  - (i) a change in his name or address;
  - (ii) the occasion of his ceasing to carry on a trade or business;
  - (iii) a change in his association with any other employer who is a participant in the scheme.

(4) For the purposes of paragraph (3)(b)(iii) above, an employer is associated with another employer if—

- (a) the association falls within the meaning given by subsection (3) of section 590A of the Taxes Act(3), read with subsection (4) of that section, or
  - (b) there exists some other basis of association between the employers which, for the purpose of granting or maintaining approval of the scheme, the Board have accepted as being sufficient to establish a permanent community of interest between the employers, whether by reason of the association falling within any of the situations specified in paragraph (5) below or otherwise.
- (5) The situations specified are where—
- (a) all the employees of the employers are the same individuals;
  - (b) the operations of the employers are interdependent;
  - (c) in the case of employers who are companies, the same individuals comprise the majority of the directors of, or hold the majority of the ordinary share capital in, each of the companies.

### **Special contributions by employers**

7.—(1) The prescribed person in relation to an exempt approved scheme shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to the special contribution specified in paragraph (3) below as is specified on the relevant form supplied by the Board.

(2) The time prescribed is any time not later than 180 days after the end of the scheme year in which the special contribution was paid to the scheme by the employer.

(3) The special contribution specified in this paragraph is any special contribution paid to the scheme by an employer on or after the date of coming into force of these Regulations, other than a contribution which—

- (a) has been certified by an actuary as made solely to finance cost of living increases for existing pensioners under the scheme; or
- (b) when aggregated with other special contributions paid by that employer to the scheme in the same chargeable period other than a contribution falling within sub-paragraph (a) above, does not result in an amount which exceeds—
  - (i) one half of the permitted maximum as at the end of the scheme year referred to in paragraph (2) above, or
  - (ii) the total contributions, other than special contributions, made by the employer to the scheme in the same chargeable period,

whichever is the greater.

### **Controlling directors as members of schemes**

8.—(1) The prescribed person in relation to an approved scheme shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to an event specified in paragraph (3) below and occurring on or after the date of coming into force of these Regulations as is specified on the relevant form supplied by the Board.

(2) The time prescribed is any time not later than 180 days after the end of the scheme year in which the event in question occurs.

(3) The events specified in this paragraph are—

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(3) Section 590A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1989.

- (a) the admission of any person to membership of the scheme who is, or has been at any time within the period of 10 years prior to the date of admission, a controlling director of a company which is an employer in relation to the scheme;
- (b) the occasion of an existing member of the scheme becoming a controlling director of a company which is an employer in relation to the scheme.

### **Controlling directors—benefits on retirement due to incapacity or serious ill-health**

**9.—(1)** The prescribed person in relation to an approved scheme shall furnish to the Board, at the time prescribed by paragraph (2) below—

- (a) notification of any proposal such as is specified in paragraph (3) below and is made on or after the date of coming into force of these Regulations, and
  - (b) the information specified in paragraph (4) below.
- (2) The time prescribed—
- (a) in the case of the proposal specified in paragraph (3)(a) below, is any time not less than 28 days prior to the proposed payment of the benefits;
  - (b) in the case of the proposal specified in paragraph (3)(b) below, is any time not less than 14 days prior to the proposed payment of the benefits.
- (3) The proposals specified in this paragraph are—
- (a) any proposal for the scheme to pay benefits to a person who is a controlling director of a company which is an employer in relation to the scheme in circumstances where that person is to retire on grounds of incapacity prior to the normal retirement date;
  - (b) any proposal for the scheme to pay benefits commuted wholly to lump sum form to a person who is a controlling director of a company which is an employer in relation to the scheme in circumstances where that person is to be retired on grounds of serious ill-health.
- (4) The information to be furnished shall be in the form of copies of documents relating to the decision of the administrator of the scheme to permit retirement on grounds of incapacity prior to the normal retirement date or, as the case may be, full commutation of benefits to lump sum form on retirement on grounds of serious ill-health, including copies of medical reports and other documents in the possession or under the control of the prescribed person containing details of the medical evidence which formed the basis of that decision.
- (5) In this regulation—
- “incapacity” means physical or mental deterioration which is sufficiently serious to prevent a person from following his normal employment or which seriously impairs his earning capacity;
  - “serious ill-health” means ill-health which is such as to give rise to a life expectancy of less than one year.

### **Reporting of chargeable events**

**10.—(1)** A person who is a prescribed person within regulation 3(a) or (b) in relation to a retirement benefits scheme which is—

- (a) an approved scheme, or
- (b) a relevant statutory scheme established under a public general Act,

shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to an event specified in paragraph (3) below as is specified on the relevant form supplied by the Board.

(2) The time prescribed is any time not later than 30 days after the end of the year of assessment in which the event in question occurs.

(3) The events specified in this paragraph are—

- (a) any repayment under the scheme to which section 598 of the Taxes Act<sup>(4)</sup> applies (repayment of employee's contributions);
- (b) any commutation of an employee's pension under the scheme to which section 599 of the Taxes Act<sup>(5)</sup> applies;
- (c) any payment under the scheme to which section 599A of the Taxes Act<sup>(6)</sup> applies (payment to or for the benefit of an employee or his personal representatives out of surplus funds);
- (d) any payment to an employer to which section 601 of the Taxes Act applies (charge to tax on payments to employer out of funds of an exempt approved scheme).

**11.**—(1) An insurance company which is a prescribed person by virtue of regulation 3(c) in relation to a retirement benefits scheme which is—

- (a) an approved scheme, or
- (b) a relevant statutory scheme established under a public general Act,

shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to an event specified in paragraph (3) below as is specified on the relevant form supplied by the Board.

(2) The time prescribed is any time not later than 180 days after the end of the chargeable period of the insurance company in which the event in question occurs.

(3) The events specified in this paragraph are—

- (a) any repayment under the scheme to which section 598 of the Taxes Act applies;
- (b) any commutation of an employee's pension under the scheme to which section 599 of the Taxes Act applies;
- (c) any payment to an employer to which section 601 of the Taxes Act applies.

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(4) Section 598(1) was amended by paragraph 10 of Schedule 6 to the Finance Act 1989.

(5) Section 599 was amended by paragraph 11 of Schedule 6 to the Finance Act 1989, paragraph 16 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48), section 107(6) of the Finance Act 1993, and section 59(3) of the Finance Act 1995.

(6) Section 599A of the Taxes Act was inserted by paragraph 12 of Schedule 6 to the Finance Act 1989.