
STATUTORY INSTRUMENTS

1996 No. 3115

INCOME TAX

The Occupational Pension Schemes (Transitional Provisions) (Amendment) Regulations 1996

Made - - - - 9th December 1996
Laid before the House of
Commons - - - - 11th December 1996
Coming into force - - 1st January 1997

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by paragraph 1(2) and (2A) of Schedule 23 to the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Occupational Pension Schemes (Transitional Provisions) (Amendment) Regulations 1996 and shall come into force on 1st January 1997.

Interpretation

2. In these Regulations “the principal Regulations” means the Occupational Pension Schemes (Transitional Provisions) Regulations 1988(2), and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3. In regulation 2(1)—

- (a) in the definitions of “section” and “Schedule” for the words “Income and Corporation Taxes Act 1988” there shall be substituted the words “Taxes Act”;
- (b) after the definitions of “section” and “Schedule” there shall be inserted the following definition—

““Taxes Act” means the Income and Corporation Taxes Act 1988;”.

(1) 1988 c. 1; sub-paragraphs (2) and (2A) of paragraph 1 of Schedule 23 were substituted for sub-paragraph (2) of that paragraph by section 56 of the Finance Act 1988 (c. 39).
(2) S.I. 1988/1436, amended by S.I. 1993/3219.

4. After regulation 4(3) there shall be inserted—

“Disapplication of paragraphs 2, 3, 4 and 6 of the Schedule - further provision

4ZA.—(1) The provisions contained in paragraphs 2, 3, 4 and 6 of the Schedule shall not apply as regards an employee in the circumstances prescribed in paragraph (2) below.

(2) The circumstances prescribed in this paragraph are circumstances where—

- (a) the employee became a member of a scheme before 17th March 1987 and remained a member until, in the circumstances specified in paragraph (3) below, he ceased to be a member, and
- (b) by way of compensation for loss suffered, or reasonably likely to be suffered, by the employee as a result of the circumstances specified in paragraph (3) below—
 - (i) the employee is reinstated as a member of that scheme, or becomes a member of another scheme established by the employer or by an employer who was a relevant employer in relation to that employer, and
 - (ii) a capital sum is paid on or after 1996 (whether or not to the trustees of the scheme) in respect of the employee.

(3) The circumstances specified in this paragraph are circumstances where, acting in reliance on bad investment advice at least some of which was given during the period beginning with 29th April 1988 and ending with 30th June 1994, the employee—

- (a) ceased to be a member of, or to pay contributions to, the scheme and instead became a member of a personal pension scheme or entered into a retirement annuity contract;
- (b) ceased to be a member of the scheme as a result of the transfer of accrued rights of his under the scheme to a personal pension scheme; or
- (c) ceased to be a member of the scheme and instead (by virtue of such a provision as is mentioned in section 591(2)(g)(4)) entered into arrangements for securing relevant benefits by means of an annuity contract.

(4) In paragraph (3) above—

“bad investment advice” means investment advice in respect of which an action against the person who gave it has been, or may be, brought—

- (a) in or for negligence;
- (b) for breach of contract;
- (c) by reason of a breach of a fiduciary obligation; or
- (d) by reason of a contravention which is actionable under section 62 of the Financial Services Act 1986(5);

“investment advice” means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986;

“personal pension scheme” has the meaning given by section 630(1)(6);

“relevant benefits” has the meaning given by section 612(1);

(3) Amended by S.I. 1993/3219.

(4) Section 591(2)(g) of the Income and Corporation Taxes Act 1988 was amended by section 107(2) of, and Part V (12) of Schedule 26 to, the Finance Act 1994 (c. 9).

(5) 1986 c. 60.

(6) Section 630 was renumbered as subsection (1) of that section by paragraph 2(2) of Schedule 11 to the Finance Act 1995 (c. 4) which also amended the definition of “personal pension scheme” in that section.

“retirement annuity contract” means a contract made before 1st July 1988 and approved by the Board under or by virtue of any provision of Chapter III of Part XIV of the Taxes Act.”

5. In regulation 12(a) there shall be inserted at the beginning the words “except for regulation 4ZA,”.

9th December 1996

S C T Matheson
G H Bush
Two of the Commissioners of Inland Revenue

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Transitional Provisions) Regulations 1988 (S.I.1988/1436) (“the principal Regulations”).

Schedule 23 to the Income and Corporation Taxes Act 1988 Regulations prescribe circumstances in which certain provisions of the Schedule are disapplied or modified in particular cases.

These Regulations, in addition to making an amendment of a drafting nature, disapply certain provisions of the Schedule in circumstances where, as a result of bad investment advice, an employee who was a member of a retirement benefits scheme before 17th March 1987 ceased to be a member of the scheme and instead became a member of a personal pension scheme or entered into an annuity contract, and subsequently as part of compensation for loss suffered is reinstated as a member of the retirement benefits scheme.