
STATUTORY INSTRUMENTS

1999 No. 1964

INCOME TAX

**The Retirement Benefits Schemes (Restriction
on Discretion to Approve) (Additional Voluntary
Contributions) (Amendment) Regulations 1999**

<i>Made</i>	- - - -	<i>9th July 1999</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th July 1999</i>
<i>Coming into force</i>	- -	<i>30th July 1999</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 591(6) and 591A(2) of the Income and Corporation Taxes Act 1988(1) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) (Amendment) Regulations 1999 and shall come into force on 30th July 1999.

Interpretation

2. In these Regulations, unless the context otherwise requires, “the principal Regulations” means the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993(2) and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3.—(1) Regulation 4 is amended as follows.

(2) In paragraph (4) for the words “The administrator” there shall be substituted the words “Subject to paragraph (4A), the administrator”.

(3) After paragraph (4) there shall be inserted the following paragraphs—

(1) 1988 c. 1; section 591 was amended by paragraph 6 of Schedule 13 to the Finance Act 1988 (c. 39), section 107 of the Finance Act 1994 (c. 9) and section 59(2) of the Finance Act 1995 (c. 4).
(2) S.I. 1993/3016.

“(4A) The administrator of the scheme may pay a benefit to an employee in a case where he has not received a benefit certificate from the administrator of the main scheme as mentioned in paragraph (4) or, where the scheme is not the leading scheme in relation to the employee, an authorisation from the administrator of the leading scheme as mentioned in that paragraph, as the case may be, if–

- (a) the employee has either–
 - (i) attained the age of 50 years, or
 - (ii) become incapable through infirmity of body or mind of carrying on his normal occupation or any occupation of a similar nature for which he is trained or fitted, and
- (b) benefits have neither ceased to accrue to the employee in the circumstances mentioned in regulation 5(5)(c)(i) nor become payable to the employee in the circumstances mentioned in regulation 5(5)(c)(ii).

(4B) Where–

- (a) an employee has notified the administrator of the scheme that he wishes the payment of benefits under the scheme to be deferred until a date after the event referred to in regulation 5(5)(c)(ii) (not being a date later than the day on which the employee attains the age of 75 years), and
- (b) the employee dies after the event referred to in regulation 5(5)(c)(ii) but before any payment of benefits under the scheme has been made,

the provisions of regulation 6 (with the exception of sub-paragraphs (a) and (b) of paragraph (6) of that regulation) shall apply on the assumption (if not otherwise the case) that the scheme is the leading scheme in relation to the employee.”

(4) In paragraph (5) for sub-paragraph (a) there shall be substituted–

“(a) shall be made–

- (i) in a case where paragraph (4B) applies, as soon as possible after the administrator has made the calculation required by regulation 6 (as applied by that paragraph), and
- (ii) in any other case, as soon as possible following receipt of notice from the leading scheme in relation to the employee of the benefits which may be paid by the scheme;”.

4. In regulation 5(3), the word “and” immediately following sub-paragraph (a) shall be omitted, and after sub-paragraph (b) there shall be inserted the following sub-paragraph–

“and

- (c) where regulation 4(4B) applies, within 30 days following receipt of a request from the administrator of the scheme referred to in that provision, provide that administrator with a copy of the benefit certificate provided under sub-paragraph (a).”

5. In regulation 6(1)–

- (a) after the words “benefit certificate” there shall be inserted the words “or, where regulation 4(4B) applies, as soon as possible following the death of the employee referred to in sub-paragraph (b) of that provision”;
- (b) after the words “each kind of benefit” there shall be inserted the words “being paid or”.

Disapplication of section 591A(2) of the Income and Corporation Taxes Act 1988

6. The provisions contained in regulations 3(2) to 5 of these Regulations are specified provisions of a required description for the purposes of subsection (2) of section 591A of the Income and Corporation Taxes Act 1988.

9th July 1999

S C T Matheson
Tim Flesher
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993 (S.I.1993/3016) (“the principal Regulations”).

Regulation 4 of the principal Regulations (“regulation 4”) restricts the discretion of the Commissioners of Inland Revenue to approve retirement benefits schemes which are freestanding additional voluntary contributions schemes where the rules of the scheme do not require the administrator to comply with the requirements of that regulation and, so far as they concern such schemes, of regulation 6 of the principal Regulations.

Regulation 3 of these Regulations amends regulation 4 to make provision for two additional circumstances as follows. First, a new paragraph (4A) is inserted which applies where an employee begins to receive benefits from a freestanding additional voluntary contributions scheme before beginning to receive benefits from his employer’s scheme. Secondly, a new paragraph (4B) is also inserted which applies where an employee defers the receipt of benefits under a freestanding additional voluntary contributions scheme until after the date when he begins to receive benefits from his employer’s scheme (but not later than his 75th birthday), and dies during the deferral period.

Regulations 4 and 5 of these Regulations make consequential amendments to regulations 4(5), 5(3) and 6(1) of the principal Regulations.

Regulation 6 of these Regulations disapplies section 591A(2) of the Income and Corporation Taxes Act 1988 in relation to the provisions introduced in the principal Regulations by regulations 3(2) to 5 of these Regulations.