

2006 No. 467

PENSIONS

The Occupational Pension Schemes (Republic of Ireland Schemes Exemption (Revocation) and Tax Exempt Schemes (Miscellaneous Amendments)) Regulations 2006

Made - - - - *23rd February 2006*

Laid before Parliament *27th February 2006*

Coming into force in accordance with regulation 1(1) to (3)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 113, 168(1) and (4), 175, 181(1) and (4), and 182(2) and (4) of the Pension Schemes Act 1993(a), sections 10(3), 27, 37(10), 38(3)(b), 40(1) and (2), 41(1) and (6), 47(5), 49(2) and (3), 50(7), 68(2)(e) and (6), 69(6), 73(2)(b), 75(1)(b), (5), (6D)(b)(i) and (10), 75A(1) to (4), 76(8), 87(1), 89(2), 118(1) and (2), 119, 124(1), 125(3) and 174(2) and (3) of the Pensions Act 1995(b) and sections 38(1)(b), 52(1)(b) and (7)(a), 59(2), 288, 289(1), 315(2), (4) and (5) and 318(1) of the Pensions Act 2004(c).

This instrument contains only regulations which are consequential on article 3(2) of the Pensions Act 2004 (Commencement No. 8) Order 2005(d) and the Occupational Pension Schemes (Cross-border Activities) Regulations 2005(e) and is made before the end of the period of six months beginning with the coming into force of those enactments(f).

-
- (a) 1993 c.48. Section 113(1)(ca) was substituted by section 52(1) of the Child Support, Pensions and Social Security Act 2000 (c.19) (“the 2000 Act”). Section 113(2)(b) was amended by S.I. 2005/2053. Section 113(3A) was inserted by section 52(2) of the 2000 Act. Section 113(4) was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c.8). Section 168 was substituted by section 155(1) of the Pensions Act 1995 (c.26) (“the 1995 Act”). Section 175 was substituted by section 165 of the 1995 Act. Section 175(1)(a), (b) in part, and (4) to (7) are repealed by Schedule 13 to the Pensions Act 2004 (c.35) (“the 2004 Act”). Section 175(1)(c) and (3)(a)(i) and (ii) were substituted by Schedule 1 to the 2004 Act. Section 175(8) was substituted, and section 175(9) is amended, by Schedule 12 to the 2004 Act. Section 181(1), to which there are amendments not relevant to these Regulations, is cited because of the meaning there given to “prescribed” and “regulations”. Section 181(4) was repealed in part by Schedule 13 to the 2004 Act.
- (b) 1995 c.26. Section 41(6) was amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998. Section 73 was substituted by sections 73, 73A and 73B by section 270 of the 2004 Act. Section 75(1) to (4) and (4A) to (4C) were substituted for section 75(1) to (4), (5) and (6) were amended and (6A) to (6D) were inserted by section 271 of the 2004 Act. Section 75(9) was repealed by Schedule 13 to the 2004 Act. Section 75A was inserted by section 272 of the 2004 Act. Section 89(2) was repealed in part by Schedule 13 to the 2004 Act. Section 118(2) was amended by section 47 of the 2000 Act, and was further amended by Schedule 12 to the 2004 Act. Section 119 was amended by Schedule 12 and repealed in part by Schedule 13 to the 2004 Act. Section 124(1), to which there are amendments not relevant to these Regulations, is cited because of the meaning there given to “prescribed” and “regulations”.
- (c) 2004 c.35. Section 318(1) is cited because of the meaning there given to “prescribed” and “regulations”.
- (d) S.I. 2005/3331.
- (e) S.I. 2005/3381.
- (f) See section 185 of the Pension Schemes Act 1993, section 120 of the Pensions Act 1995 and section 317 of the Pensions Act 2004 which provide that the Secretary of State must consult such persons as he considers appropriate before he makes any regulations by virtue of those Acts. By virtue of section 185(2)(e) of the Pension Schemes Act 1993, section 120(2)(d) of the Pensions Act 1995 and section 317(2)(d) of the Pensions Act 2004 this duty does not apply to regulations contained in a statutory instrument which (i) states that it contains (and in the case of s.317(2)(d) states that it contains only) regulations which are consequential upon a specified enactment, and (ii) is made before the end of the period of six months beginning with the coming into force of that enactment.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Republic of Ireland Schemes Exemption (Revocation) and Tax Exempt Schemes (Miscellaneous Amendments)) Regulations 2006 and shall come into force on 20th March 2006, subject to paragraphs (2) and (3).

(2) Regulations 2, 3 and 6 to 8 shall come into force on 30th March 2006.

(3) Regulation 10 shall come into force on 6th April 2006.

(4) Regulation 4 and this regulation in so far as it applies to regulation 4 extend to Northern Ireland.

Amendment of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

2.—(1) The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(a) are amended as follows.

(2) After sub-paragraph (a) of regulation 2(1) (application of these Regulations), insert—

“(aa) is a scheme which—

(i) has such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1988 (exemption from tax in respect of certain pensions); and

(ii) is undertaking cross-border activities; or”.

(3) After paragraph (2) of regulation 2, insert—

“(2A) For the purposes of this regulation, any reference to a scheme which is undertaking cross-border activities is a reference to a scheme in relation to which the trustees or managers are—

(a) authorised under section 288 of the Pensions Act 2004 (general authorisation to accept contributions from European employers); and

(b) approved under section 289 of that Act (approval in relation to particular European employer) in relation to a European employer.”.

(4) In paragraph (1) of regulation 8 (limited disclosure requirements imposed on trustees of schemes which are not tax approved or public service pension schemes), for the words “neither regulation 2(1)(a) nor (b) refers” substitute the words “regulation 2(1)(a), (aa) and (b) do not refer.”.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996

3.—(1) The Occupational Pension Schemes (Winding Up) Regulations 1996(b) are amended as follows.

(2) In paragraph (1) of regulation 10 (disapplication of section 38), for sub-paragraph (d), substitute—

“(d) to a scheme—

(i) which is a section 615(6) scheme; and

(ii) in relation to which the trustees or managers are not—

(aa) authorised under section 288 of the Pensions Act 2004 (general authorisation to accept contributions from European employers); or

(bb) approved under section 289 of that Act (approval in relation to particular European employer) in relation to a European employer;”.

(a) S.I. 1996/1655, amended by S.I. 2000/1403, there are other amending instruments not relevant to these Regulations.

(b) S.I. 1996/3126, to which there are amendments not relevant to these Regulations.

Amendment of the Register of Occupational and Personal Pension Schemes Regulations 2005

4.—(1) The Register of Occupational and Personal Pension Schemes Regulations 2005(a) are amended as follows.

(2) In paragraph (4) of regulation 1 (interpretation), after the definition of “relevant public authority”, insert—

““scheme undertaking cross-border activities” means a scheme in relation to which the trustees or managers—

- (a) are proposing to apply for authorisation, or are authorised, under section 288 of the Act (general authorisation to accept contributions from European employers); or
- (b) are proposing to apply for approval, or are approved, under section 289 of the Act (approval in relation to particular European employer) in relation to a European employer; and”.

(3) After sub-paragraph (b) of regulation 2(1) (registrable schemes), insert “or” and the following sub-paragraph—

“(c) which—

- (i) has such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1988 (exemption from tax in respect of certain pensions), and
- (ii) is a scheme undertaking cross-border activities.”.

Amendment of the Occupational and Personal Pension Schemes (General Levy) Regulations 2005

5.—(1) The Occupational and Personal Pension Schemes (General Levy) Regulations 2005(b) are amended as follows.

(2) In paragraph (1) of regulation 2 (interpretation), after the definition of “the 2004 Act”, insert—

““cross-border section 615 scheme” means a scheme—

- (a) which has such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1988 (exemption from tax in respect of certain pensions); and
- (b) in relation to which the trustees or managers are—
 - (i) authorised under section 288 of the 2004 Act (general authorisation to accept contributions from European employer); and
 - (ii) approved under section 289 of the 2004 Act (approval in relation to particular European employer) in relation to a European employer;”.

(3) In paragraph (1) of regulation 3 (the general levy), after “each registrable occupational pension scheme”, insert “, other than such a scheme which is a cross-border section 615 scheme;”.

Amendment of the Occupational Pension Schemes (Employer Debt) Regulations 2005

6.—(1) The Occupational Pension Schemes (Employer Debt) Regulations 2005(c) are amended as follows.

(2) In paragraph (1) of regulation 4 (schemes to which section 75 of the 1995 Act does not apply), for sub-paragraph (g), substitute—

“(g) a scheme—

(a) S.I. 2005/597.

(b) S.I. 2005/626.

(c) S.I. 2005/678, to which there are amendments not relevant to these Regulations.

- (i) which has such a superannuation fund as is mentioned in section 615(6) of the Taxes Act (exemption from tax in respect of certain pensions); and
- (ii) in relation to which the trustees or managers are not—
 - (aa) authorised under section 288 of the 2004 Act (general authorisation to accept contributions from European employer); or
 - (bb) approved under section 289 of the 2004 Act (approval in relation to particular European employer) in relation to a European employer;”.

Amendment of the Occupational Pension Schemes (Winding up etc.) Regulations 2005

7.—(1) The Occupational Pension Schemes (Winding up etc.) Regulations 2005(a) are amended as follows.

(2) In paragraph (1) of regulation 3 (schemes to which section 73 of the 1995 Act does not apply), for sub-paragraph (h), substitute—

“(h) a scheme—

- (i) which has such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1988 (exemption from tax in respect of certain pensions); and
- (ii) in relation to which the trustees or managers are not—
 - (aa) authorised under section 288 of the 2004 Act (general authorisation to accept contributions from European employer); or
 - (bb) approved under section 289 of the 2004 Act (approval in relation to particular European employer) in relation to a European employer;”.

Amendment of the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005

8.—(1) The Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005(b) are amended as follows.

(2) In regulation 3 (prescribed schemes), for sub-paragraph (i), substitute—

“(i) a scheme—

- (i) which has such a superannuation fund as is mentioned in section 615(6) of the 1988 Act (exemption from tax in respect of certain pensions), and
- (ii) in relation to which the trustees or managers are not—
 - (aa) authorised under section 288 of the Act (general authorisation to accept contributions from European employer); or
 - (bb) approved under section 289 of the Act (approval in relation to particular European employer) in relation to a European employer;”.

Amendment of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005

9.—(1) The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 are amended as follows.

(2) In paragraph (1) of regulation 2 (interpretation), after the definition of “seconded worker”, insert—

(a) S.I. 2005/706, to which there are amendments not relevant to these Regulations.
 (b) S.I. 2005/931, amended by S.I. 2005/993.

““section 615 scheme” means a scheme which has such a superannuation fund as is mentioned in section 615(6) of the Income and Corporation Taxes Act 1988 (exemption from tax in respect of certain pensions);”.

(3) In regulation 5 (applications for general authorisation to accept contributions from European employers: established schemes which are carrying on cross-border activity)—

(a) at the beginning of paragraph (2), insert “Subject to paragraph (3),”; and

(b) after paragraph (2), add—

“(3) Where—

(a) the trustees or managers of a section 615 scheme make such an application on or before 29th March 2006;

(b) that application is made in a form which—

(i) includes the full name of the scheme; and

(ii) in the case of—

(aa) a money purchase scheme, provides as much of the information specified in paragraph (2)(a) as is readily available to those trustees or managers on the day on which the application is made; or

(bb) a scheme which is not a money purchase scheme, provides as much of the information specified in paragraph (2)(b) as is readily available to those trustees or managers on the day on which the application is made; and

(c) those trustees or managers provide all of the remaining information specified in paragraph (2)(a) or (b), as the case may be, on or before 15th May 2006;

that application shall be deemed to have been made on the day on or before 29th March 2006 on which the application was first made.”.

(4) In regulation 10 (applications for approval in relation to particular European employer: established schemes which are carrying on cross-border activity)—

(a) at the beginning of paragraph (2), insert “Subject to paragraph (3),”; and

(b) after paragraph (2), add—

“(3) Where—

(a) the trustees or managers of a section 615 scheme make such an application on or before 29th March 2006;

(b) that application is made in a form which—

(i) includes the information specified in section 289(1)(a) to (c); and

(ii) in the case of—

(aa) a money purchase scheme, provides as much of the information specified in paragraph (2)(a) as is readily available to those trustees or managers on the day on which the notice of intention is given; or

(bb) a scheme which is not a money purchase scheme, provides as much of the information specified in paragraph (2)(b) as is readily available to those trustees or managers on the day on which the notice of intention is given; and

(c) those trustees or managers provide all of the remaining information specified in paragraph (2)(a) or (b), as the case may be, on or before 15th May 2006;

that application shall be deemed to have been made on the day on or before 29th March 2006 on which the notice of intention was first given.”.

Revocation

10. The Regulations specified in column 1 of the Schedule to these Regulations are revoked to the extent specified in column 3.

Signed by authority of the Secretary of State for Work and Pensions.

Philip A Hunt
Parliamentary Under-Secretary of State,
Department for Work and Pensions

23rd February 2006

SCHEDULE

Regulation 10

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Occupational Pension Schemes (Disclosure of Information) Regulations 1996	S.I. 1996/1655	Regulation 2(2)(aa)
The Occupational Pension Schemes (Scheme Administration) Regulations 1996	S.I. 1996/1715	In regulation 12(2), the words from “or to a scheme” to the end, in regulation 12(3)(b), the word “or” at the end, and regulation 12(3)(c)
The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996	S.I. 1996/1975	Regulation 2(2A)
The Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000	S.I. 2000/3198	The whole of the Regulations
The Occupational and Personal Pension Schemes (General Levy) Regulations 2005	S.I. 2005/626	Regulation 2(2)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to certain occupational pension schemes which both have such a superannuation fund as is mentioned in section 615 (exemptions from tax in respect of certain pensions) of the Income and Corporation Taxes Act 1988 (c.1), and which are undertaking, or, in the case of the amendment provided for in regulation 4, propose to undertake, cross-border activity (“cross-border section 615 schemes”).

These Regulations also revoke the Occupational Pension Schemes (Republic of Ireland Schemes Exemption) Regulations 2000 (S.I. 2000/3198) and certain other provisions in pensions legislation which make provision in respect of certain occupational pension schemes which are established in the Republic of Ireland which have, or have had, at least one member in pensionable service in Great Britain.

These Regulations are consequential on the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), and on article 3(2) of the Pensions Act 2004 (Commencement No. 8) Order 2005 (S.I. 2005/3331 (C.141)).

Regulation 4 and regulation 1 in so far as it applies to that regulation extend to Northern Ireland.

Regulation 4 amends regulation 2 of the Register of Occupational and Personal Pension Schemes Regulations 2005 (S.I. 2005/597). The amendment provides that from 20th March 2006 a cross-border section 615 scheme is a registrable scheme.

Regulations 2, 3 and 5 to 8 amend, respectively, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655), the Occupational Pension Schemes (Winding Up) Regulations 1996 (S.I. 1996/3126), the Occupational and Personal Pension Schemes (General Levy) Regulations 2005 (S.I. 2005/626), the Occupational Pension Schemes (Employer Debt) Regulations 2005 (S.I. 2005/678), the Occupational Pension Schemes (Winding up etc.) Regulations 2005 (S.I. 2005/706) and the Pensions Regulator (Contribution Notices and Restoration Orders) Regulations 2005 (S.I. 2005/931) so as to make some or all of the provisions of those Regulations apply to cross-border section 615 schemes.

The amendments made by regulations 2 to 8 are made in order to comply with the requirements of the European Union Directive on the activities and supervision of institutions for occupational retirement provision (Directive 2003/41/EC; OJ No. L 235, 23.9.03, p.10).

Regulation 9 amends regulations 5 and 10 of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381). The amendments provide that trustees or managers of cross-border section 615 schemes who apply on or before 29th March 2006 for authorisation and approval can provide some of the information required in those applications after that date provided it is all provided on or before 15th May 2006.

Regulation 10 brings into effect the Schedule, which revokes the regulations which made provision exempting Republic of Ireland schemes from certain requirements imposed by the Pensions Act 1995 (c.26) and by certain regulations made under the Pension Schemes Act 1993 (c.48) and the Pensions Act 1995 in relation to occupational pension schemes.

A Regulatory Impact Assessment has not been prepared for this instrument as it has only a negligible impact on business, charities or voluntary bodies. Copies of a transposition note concerning the implementation of the Directive by these Regulations may be obtained from Private Pensions, Department for Work and Pensions, 3rd floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

2006 No. 467

PENSIONS

**The Occupational Pension Schemes (Republic of Ireland
Schemes Exemption (Revocation) and Tax Exempt Schemes
(Miscellaneous Amendments)) Regulations 2006**

£3.00

© Crown copyright 2006

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0223 2/2006 160223T 19585