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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to The Pension Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (S.I. 2006/207) (“the Regulations”), in relation to the method of computing the amount to be charged to UK tax in respect of a payment by a relevant non-UK pension scheme (“RNUKS”) which is referable to a member’s UK tax-relieved fund.

Regulation 2 provides for the coming into force of regulations 5, 6, 7, 9 and 10 from 9th March 2017 and regulation 3 provides for the coming into force of regulation 8 from 6th April 2017.

Section 282(A1) of the Finance Act 2004 (c. 12) (“the Act”) provides that regulations made under Part 4 of the Act may include provision having effect in relation to times before the regulation is made if that provision does not increase any person’s liability to tax. Section 282(A2) of the Act provides that subsection (A1) does not limit any specific power to make provision by regulations in relation to times before the regulations are made.

Paragraph 7(1) of Schedule 34 to the Act provides that regulations may modify or add to how the member payments provisions apply to a relieved member or transfer member of a relevant non-UK scheme. Paragraph 7(2)(a) provides that the regulations referred to in paragraph 7(1) may include provision having effect in relation to times before they are made.

Paragraph 7A(1) of Schedule 34 to the Act provides that regulations may make provision for a transfer member of a RNUKS to be liable to the unauthorised payment charge in the same or similar circumstances as set out in sub-paragraphs (a), (b) or (c). Paragraph 7A(2)(b) provides that the regulations referred to in paragraph 7A(1) may include provision having effect in relation to times before they are made.

Regulation 5 inserts the definitions of ring-fenced transfer fund (“RFTF”) and ring-fenced taxable asset transfer fund (“RFTATF”) into regulation 1 of the Regulations.

Regulation 6 inserts new regulations 3B and 3C in the Regulations which provide the method for computing the member’s RFTF and the member’s RFTATF fund respectively.

Regulation 7 amends regulation 4 of the Regulations, which provides the rule for attributing payments out of a RNUKS which are made to, or in respect of, a member of that scheme. As a consequence of the amendment by regulation 7(1) regulation 4 now only applies to payments made before 6th April 2017. New paragraph (3A) provides for the manner in which those payments are referable to the member’s RFTF and RFTATF respectively.

Regulation 8 inserts new regulations 4ZA to 4ZF into the Regulations. Regulations 4ZA to 4ZE apply to payments and crystallisation events occurring on or after 6th April 2017.

New regulation 4ZA provides the method for determining when a member’s funds will be reduced by a payment or crystallisation.

New regulation 4ZB provides the method for determining the amount of the reduction.

New regulation 4ZC provides the method for the order in which the member’s funds will be reduced.

New regulation 4ZD provides the method for attributing funds back to the member’s fund where certain payments or events occur after a crystallisation event.

New regulation 4ZE provides the method for attributing repayment of the overseas transfer charge to the member’s funds.

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

New regulation 4ZF provides for transitional provisions in respect of sums and assets designated for payment of a drawdown pension or where a member becomes entitled to a scheme pension before 6th April 2017.

Regulation 9 inserts a reference to “ring-fenced taxable asset transfer fund” in the title of regulation 4A of the Regulations.

Regulation 10 inserts a reference to “ring-fenced taxable asset transfer fund” in regulation 4B of the Regulations.

Tax Information and Impact Notes covering this instrument were published on 5 December 2016 (Foreign pension schemes) and 8 March 2017 (Qualifying recognised overseas pension schemes charge on transfers) alongside draft Schedules 3 and 4 to Finance Bill 2017 and are available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. They remain an accurate summary of the impacts that apply to this instrument.