

## 1990 No. 1143

### PENSIONS

#### The Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990

<i>Made</i> - - - -	<i>29th May 1990</i>
<i>Laid before Parliament</i>	<i>6th June 1990</i>
<i>Coming into force</i>	<i>27th June 1990</i>

The Secretary of State for Social Security, in exercise of his powers under sections 69(2), (3), (4) and (5), 96(1) and 99(1) and (3) of the Social Security Act 1973(a), after considering the report of the Occupational Pensions Board on the proposals submitted to them(b), hereby makes the following Regulations:

#### Citation and commencement

1.—(1) These Regulations may be cited as the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990.

(2) These Regulations come into force on 27th June 1990.

#### Definitions

2. In these Regulations—

▶<sup>1</sup>“the Act” means the Pension Schemes Act 1993◀;

“Taxes Act” means the Income and Corporation Taxes Act 1988(c).

<sup>1</sup>Defn. of “the Act” substituted for defn. of “1973 Act” by para. 24(2) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

<sup>2</sup>Reg. 3 & 4 substituted by art. 5(2) of S.I. 2006/744 as from 6.4.06.

#### ▶<sup>2</sup>Occupational pension schemes to which section 163 of the Act applies

3.—(1) An occupational pension scheme is a scheme to which section 163 of the Act (exemption of certain schemes from rules against perpetuities) applies at any time when it satisfies the requirements of any of paragraphs (2) to (6) of this regulation.

(2) This paragraph requires the scheme to be a superannuation fund which is to be treated as becoming registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(b) and (3) of Schedule 36 to that Act (deemed registration of existing schemes).

(3) This paragraph requires the scheme to be a superannuation fund to which section 615(3) of the Taxes Act (exemption from tax in respect of certain pensions) applies, or to which Her Majesty’s Revenue and Customs give relief from income tax under section 614(5) of the Taxes Act (exemptions and relief in respect of income from certain investments etc. of certain pension schemes).

(4) This paragraph requires the scheme to be a trust scheme which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 of that Act.

(a) 1973 c. 38. Section 69 has been amended by paragraph 28 of Schedule 4 to the Social Security Pensions Act 1975 (c. 60) and paragraph 6 of Schedule 10 to the Social Security Act 1986 (c. 50). See the definition of “prescribed” in section 99(1) and the explanation of “regulations” in section 99(3). [S. 69 has been consolidated in s. 163 of the Pension Schemes Act 1993 (c. 48).]

(b) See section 68(1) and (2) of the Social Security Act 1973 (c. 38).

(c) 1988 c. 1.

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- (5) This paragraph requires the scheme, or part of the scheme, to be either—
- (a) an occupational pension scheme which is—
    - (i) registered under section 153 of the Finance Act 2004, or
    - (ii) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(a) of Schedule 36 to that Act.
- (6) This paragraph requires the scheme to be an occupational pension scheme and Her Majesty's Revenue and Customs to be satisfied under section 153 of the Finance Act 2004, that the scheme corresponds to a scheme registered by Her Majesty's Revenue and Customs for the purposes of Part 4 of that Act.

**Personal pension schemes to which section 163 of the Act applies**

4. A personal pension scheme is a scheme to which section 163 of the Act applies at any time when the scheme, or a part of the scheme, is either—
- (a) registered under section 153 of the Finance Act 2004; or
  - (b) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(g) of Schedule 36 of that Act.◀

**Schemes that cease to qualify under section 69 of the 1973 Act**

5. An occupational pension scheme that ceases to be contracted-out or to satisfy the requirements of any of paragraphs (2) to (6) of regulation 3, and a personal pension scheme that ceases to be an appropriate scheme or to satisfy the requirements of regulation 4, will nevertheless be treated as continuing to ▶<sup>1</sup>be a scheme to which section 163 of the Act applies◀ for a further period of 2 years from the cesser, or for such longer period as the ▶<sup>2</sup>Secretary of State considers◀ reasonable in the case of the particular scheme.

<sup>1</sup>Words in reg. 5 substituted by para. 24(4) of Sch. 2 to S.I. 1994/1062 as from 12.5.94.

<sup>2</sup>Words in reg. 5 substituted by reg. 3 of S.I. 1996/2131 as from 6.4.97.

[Regulation 6 revokes S.I. 1973/1431 and S.I. 1975/957.]

Signed by authority of the Secretary of State for Social Security.

29th May 1990

*Nicholas Scott*  
Minister of State,  
Department of Social Security

**EXPLANATORY NOTE**

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

These Regulations replace the Occupational Pension Schemes (Perpetuities) Regulations 1973.

Section 69 of the Social Security Act 1973 says that any personal or occupational pension scheme that qualifies under that section shall be exempt from the operation of any rules of law relating to perpetuities which would otherwise invalidate any of the trusts of the scheme.

Regulations 3 and 4 set out the requirements for occupational and personal pension schemes to qualify, under section 69, for this exemption. Public service pension schemes, contracted-out occupational pension schemes and appropriate personal pension schemes qualify for this exemption whether or not they satisfy these requirements.

Regulation 5 says that schemes that cease to satisfy the requirements to qualify for the exemption will nevertheless be treated as continuing to qualify under section 69 for a further period of 2 years or such longer period as the Occupational Pensions Board consider reasonable.

The report of the Occupational Pensions Board on the draft of these Regulations which was referred to them, together with a statement by the Secretary of State showing that these Regulations give effect to the Board's recommendations, is contained in Command Paper No.1086, published by Her Majesty's Stationery Office.

