EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (RELEVANT ANNUITIES) REGULATIONS 2006 No. 129

THE REGISTERED PENSION SCHEMES (UPRATING PERCENTAGES FOR DEFINED BENEFIT ARRANGEMENTS AND ENHANCED PROTECTION LIMITS) REGULATIONS 2006 No. 130

THE REGISTERED PENSION SCHEMES (ENHANCED LIFETIME ALLOWANCE) REGULATIONS 2006 No. 131

THE ARMED FORCES AND RESERVE FORCES (COMPENSATION SCHEME)(EXCLUDED BENEFITS FOR TAX PURPOSES) REGULATIONS 2006 No. 132

THE REGISTERED PENSION SCHEMES (CO-OWNERSHIP OF LIVING ACCOMMODATION) REGULATIONS 2006 No. 133

THE REGISTERED PENSION SCHEMES (AUTHORISED PAYMENTS) (TRANSFERS TO THE PENSION PROTECTION FUND) REGULATIONS 2006 No. 134

THE REGISTERED PENSION SCHEMES (AUTHORISED MEMBER PAYMENTS) REGULATIONS 2006 No. 137

THE REGISTERED PENSION SCHEMES (REDUCTION IN PENSION RATES) REGULATIONS 2006 No. 138

THE PENSION BENEFITS (INSURANCE COMPANY LIABLE AS SCHEME ADMINISTRATOR) REGULATIONS 2006 No. 136

THE REGISTERED PENSION SCHEMES (MEANING OF PENSION COMMENCEMENT LUMP SUM) REGULATIONS 2006 No. 135

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before The House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1. This memorandum follows the Explanatory Memorandum for Statutory Instruments 3448 to 3458 laid before the House of Commons on 15 December 2005.

2.2. These 10 sets of Regulations are the second part of the Government's measures to simplify the taxation of pensions. They flow from Part 4 of the Finance Act 2004 as amended.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1. The Select Committee is respectfully referred to the Explanatory Memorandum for Statutory Instruments 3448 to 3458 laid before the House of Commons on 15 December 2005.

3.2. The table annexed to that memorandum showed the full list of Instruments that are expected to be laid for Part 4 of the Finance Act 2004 on the 6th April 2006. These Statutory Instruments are the second tranche of Regulations to be laid. They will have effect from 6th April 2006.

3.3. Further instruments will follow in the next month.

3.4. An explanation of each instrument follows:

The Registered Pension Schemes (Relevant Annuities) Regulations 2006 No. 129
These Regulations provide definitions of the terms “relevant annuity” and “annual amount” that are relevant in calculating the “basis amount” used for the application of the annual pension payment on the level of unsecured pension and alternatively secured pension that can be drawn from a money purchase arrangement.

The Regulations also provide that the calculation of the annual rate of relevant annuity is done in accordance with tables prepared by the Government’s Actuary’s Department.

The Registered Pension Schemes (Uprating Percentages for Defined Benefit Arrangements and Enhanced Protection Limits) Regulations 2006 No. 130
The pension scheme legislation in Part 4 of the Finance Act 2004 tests annual contributions and benefit enhancements and, where an annual allowance is exceeded, applies an annual allowance charge. Additionally retirement benefits accrued under the current pensions tax regime are protected from the limits and tax charges in the new pensions tax regime provided no contribution or benefit enhancement occurs after 6 April 2006 (this is know as “enhanced protection”). These regulations prevent statutory increases under social security legislation from either triggering the annual allowance charge or invalidating enhanced protection.

The Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006 No. 131
The pension scheme legislation includes provision that an individual has a lifetime allowance on the amount of pension savings that may benefit from tax relief. Enactments in the legislation that provide for an enhanced lifetime allowance specify that the enactment in question only applies if notice of intention to rely on it is given in accordance with regulations.
These regulations contain provisions that enable an individual to rely on enactments providing for an enhanced lifetime allowance.

The Armed Forces & Reserve Forces (Compensation Scheme)(Excluded Benefits for Tax Purposes) Regulations 2006 No. 132

The tax regime governing the Armed Forces Compensation Scheme exempts to income tax benefits payable under the scheme. The provisions that will apply from 6 April 2006 to employer-financed retirement benefit schemes, which are schemes that are not registered pension schemes, mean that some benefits from the Armed Forces Compensation Scheme would be taxable. These regulations ensure that benefits paid from the Armed Forces Compensation Scheme from 6 April 2006 are "excluded benefits" and are therefore not subject to income tax.

The Registered Pension Schemes (Co-ownership of Living Accommodation) Regulations 2006 No. 133

The Chancellor announced in his 2006 Pre Budget Report that the Government would remove tax advantages for self-directed pension schemes investing in residential property. However, certain self-directed pension schemes, primarily some small self-administered schemes (SSASs) set up pre 1991 and certain retirement annuity schemes (RACs) have the ability to invest in residential property under current rules.

Transitional protection will be extended to allow these particular schemes to continue to hold residential property in their asset portfolio under the new regime, subject to certain restrictions. Because such schemes, and other, non-self-directed schemes, may continue to both hold residential property under the new pensions tax regime and provide benefits for members in respect of that property, the legislation relating to member benefits, of which these Regulations are a part, remains in place.

These Regulations apply where living accommodation is owned partly by a registered pension scheme and partly by other persons. The regulations provide for a charge to income tax to arise in certain circumstances. If these regulations apply, "the living accommodation benefit" arises. The amount of the benefit apportioned on the individual is calculated in the same way as a taxable benefit is calculated under Chapter 5 of Part 3 of the Income Tax (Employments and Pensions) Act 2003. This is referred to as "the private owner's benefit". The amount of the benefit apportioned to the registered pension scheme is treated as an unauthorised payment, and is referred to as "the pension scheme owner's benefit".

The Registered Pension Schemes (Authorised Payments) (Transfers to the Pension Protection Fund) Regulations 2006 No. 134

Where the sponsoring employer of a registered pension scheme has become insolvent, the property, rights and liabilities of that scheme may be transferred to the Pension Protection Fund (under provisions in the Pensions Act 2004). These Regulations provide that such transfers are treated as "authorised member payments" and so will not trigger any tax charge.

The Registered Pension Schemes (Authorised Member Payments) Regulations 2006 No. 137

These Regulations prescribe as an authorised member payment, a payment made by an insurance company to a member of a registered pension scheme which is neither an occupational pension scheme nor a public service pension scheme, or the holder of a qualifying annuity contract, in connection with the company's demutualisation and satisfies the following conditions,

- The payment is made in compensation for the loss of the member's rights as a member of the company and
- It is made without a reduction in the total value of the sums and assets held for the purposes of the personal pension scheme, or the value or amount of the annuity.

The Registered Pension Schemes (Reduction in Pension Rates) Regulations 2006 No. 138
These Regulations make supplementary provisions to sub-paragraph 2(3) of Schedule 28 of the Finance Act 2004 that provides the conditions that:

- a pension is payable until the later of member's death or the end of a term not exceeding ten years; and
- the rate of pension payable in respect of any relevant 12 month period is not less than the rate payable in respect of the previous 12 month period.

These Regulations provide further circumstances in which members' scheme pensions may be stopped or reduced.

The Pension Benefits (Insurance Company Liable as Scheme Administrator) Regulations 2006 No. 136
These Regulations provide that where an insurance company makes a payment of a lump sum death benefit that is a;

- Pension protection lump sum death benefit;
- Annuity protection lump sum death benefit or
- Unsecured pension fund lump sum death benefit,

The insurance company is treated as the scheme administrator and as such is liable to the special lump sum death benefits charge, and making returns of the liability.

The Registered Pension Schemes (Meaning of Pension Commencement Lump sums) Regulations 2006 No. 135
These Regulations prescribe the circumstances that a lump sum may be treated as a pension commencement lump sum even though it is not paid within the period of three months beginning with the day the member became entitled, or it is paid when the member has reached the age of 75 (or both). The circumstances are where there has been an overpayment of tax on the lifetime allowance charge which is refunded by Her Majesty's Revenue and Customs to the scheme and the scheme administrator pays part or all of the overpayment to the member.

4. Legislative Background

4.1. The powers to make these regulations and order are contained in sections 164, 173, 220, 221,224 235, 251, 256, 273A, paragraphs 2 and 14 of schedule 28, paragraph 1 of schedule 29 and paragraphs 7, 12, 15, 16, 17 and 18 of schedule 36 of the Finance Act 2004, section 393B of Income Tax (Earnings and Pensions) Act 2003 and section 113 of the Taxes Management Act 1970.

4.2 Regulations under the sections may make provisions specifying, modifying, prescribing and restricting the application of the relevant legislation in relation to Part 4 finance Act 2004 as amended.

5. Extent

5.1. These instruments apply throughout the United Kingdom.

6. European Convention on Human Rights

6.1. These regulations are subject to annulment and do not amend primary legislation. Accordingly no statement of compatibility is required.

7. Policy Background

7.1. The Government wants to encourage today's workers, tomorrow's pensioners, to save for their retirement and offers generous tax incentives to encourage people to save in a pension. Following extensive consultation, pensions tax simplification was legislated for in Part 4 of the Finance Act 2004. As a result of ongoing consultation a package of supplementary measures were introduced in Finance Act 2005. The objectives are to increase individual choice and flexibility and cut industry costs by tackling the complexity and fragmentation caused by the current rules.

7.2. From 6 April 6 2006, a new unified pensions tax regime will replace the numerous existing regimes. The new regime will contain two key controls on tax relief for pension savings, a lifetime allowance and an annual allowance, which will replace the plethora of controls currently in existence.

8. Impact

8.1. The impact of these regulations is contained within the Simplifying the taxation of pensions Regulatory Impact Assessment and Appendix which can be found at www.hmrc.gov.uk/ria/simplifying-pensions.pdf and www.hmrc.gov.uk/ria/simplifying-pensions-appendix.pdf

9. Contact

Kevin Golightly at HM Revenue & Customs (tel: 020 7147 2825 or e-mail: Kevin.Golightly@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.