STATUTORY INSTRUMENTS

2006 No. 575

CORPORATION TAX
INCOME TAX
CAPITAL GAINS TAX
INHERITANCE TAX
STAMP DUTY LAND TAX

The Pension Protection Fund (Tax) Regulations 2006

Made - - - -	*9th March 2006*
Laid before the House of Commons - - - -	*10th March 2006*
Coming into force - -	*6th April 2006*

The Treasury make the following Regulations in exercise of the powers conferred by section 102 of the Finance Act 2005 [M1]:

Marginal Citations
M1 2005 c. 7.

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Tax) Regulations 2006 and shall come into force on 6th April 2006.

Interpretation

2.—(1) In this regulation—

(a) paragraph (2) gives the meaning of the abbreviated references to Acts and instruments used in these Regulations, and

(b) paragraph (3) deals with other expressions used in these Regulations.

(2) In these Regulations—

"FA 2004" means the Finance Act 2004 [M2];

"ICTA" means the Income and Corporation Taxes Act 1988 [M3];

"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003 [M4];

"the Pensions Act" (without more) means the Pensions Act 2004 [M5];

"the Pensions Order" means the Pensions (Northern Ireland) Order 2005 [M6];

"TCGA 1992" means the Taxation of Chargeable Gains Act 1992 [M7].

(3) In these Regulations—

"the Board of the Pension Protection Fund" means the body corporate established under section 107 of the Pensions Act;

"dependant" is to be construed in accordance with paragraph 15 of Schedule 28 to FA 2004 [M8];

"dependants' scheme pension" is to be construed in accordance with paragraph 16 of Schedule 28 to FA 2004 [M9];

"the Fraud Compensation Fund" has the meaning given by regulation 3(1);

"fraud compensation payment"—

(a) in England, Wales and Scotland means a fraud compensation payment within the meaning of Part 2 of the Pensions Act (see section 182(1) of that Act), and

(b) in Northern Ireland means a fraud compensation payment within the meaning of Part 3 of the Pensions Order (see Article 165(1) of that Order);

"Part 4" means Part 4 of FA 2004 (pension schemes);

"the pension compensation provisions"—

(a) in England, Wales and Scotland is to be construed in accordance with section 162(2) of the Pensions Act (the pension compensation provisions), and

(b) in Northern Ireland is to be construed in accordance with Article 146(2) of the Pensions Order (the pension compensation provisions);

"the Pension Protection Fund" has the meaning given by regulation 3(1);

"the Pensions Act Funds" has the meaning given by regulation 3(1);

"the Pensions Act levies" means the levies specified in paragraph (2) or (3) of regulation 3, as the case may require;

"periodic compensation"—

(a) in England, Wales and Scotland is to be construed in accordance with Schedule 7 to the Pensions Act (pension compensation provisions), and

(b) in Northern Ireland is to be construed in accordance with Schedule 6 to the Pensions Order (pension compensation provisions);

"registered pension scheme" has the meaning given by section 832(1) of ICTA [M10];

"Schedule 36" means Schedule 36 to FA 2004 (transitional provisions);

"scheme pension" is to be construed in accordance with paragraph 2 of Schedule 28 to FA 2004 [M11].

Marginal Citations

M2 2004 c. 12 .
M3 1988 c. 1 .
M4 2003 c. 1 .
M5 2004 c. 35 .

M6 S.I. 2005/255 (N.I. 1) .
M7 1992 c. 12 .
M8 Paragraph 15 of Schedule 28 was amended by paragraph 26 of Schedule 10 to the Finance Act 2005.
M9 Paragraph 16 of Schedule 28 was amended by paragraph 27 of Schedule 10 to the Finance Act 2005.
M10 The definition of "registered pension scheme" was inserted by paragraph 35(2) of Schedule 35 to the Finance Act 2004.
M11 Paragraph 2 of Schedule 28 was amended by paragraph 11(3) of Schedule 10 to the Finance Act 2005.

Meaning of "the Pension Protection Fund" and other expressions

3.—(1) In these Regulations—

"the Pension Protection Fund" means the Fund required to be held, managed and applied by the Board of the Pension Protection Fund under section 110(1)(a) of the Pensions Act;

"the Fraud Compensation Fund" means the Fund required to be held, managed and applied by the Board of the Pension Protection Fund under section 110(1)(b) of the Pensions Act;

"the Pensions Act Funds" means the Pension Protection Fund and the Fraud Compensation Fund.

(2) In England, Wales and Scotland "the Pensions Act levies" means—

(a) the administration levy referred to in section 117(1) of the Pensions Act;

(b) the risk-based pension protection levy referred to in section 175(1)(a) of that Act;

(c) the scheme-based pension protection levy referred to in section 175(1)(b) of that Act;

(d) the fraud compensation levy referred to in section 189(1) of that Act;

(e) a levy in respect of eligible schemes imposed by regulations made under section 209(7) of that Act (the Ombudsman for the Board of the Pension Protection Fund).

(3) In Northern Ireland "the Pensions Act levies" means—

(a) the administration levy referred to in Article 103(1) of the Pensions Order;

(b) the risk-based pension protection levy referred to in Article 158(1)(a) of that Order;

(c) the scheme-based pension protection levy referred to in Article 158(1)(b) of that Order;

(d) the fraud compensation levy referred to in Article 171(1) of that Order;

(e) a levy in respect of eligible schemes imposed by regulations made under Article 191(3) of that Order (the PPF Ombudsman).

Application of the Tax Acts: general

4.—(1) The Tax Acts apply in relation to the Pension Protection Fund in the same way as they apply in relation to a registered pension scheme.

(2) The general rule in paragraph (1) is subject to the further provisions contained in these Regulations.

Application of Part 4 of FA 2004: further provisions

5. Section 151 of FA 2004 (meaning of "member") applies as if, in Part 4, "member" in relation to the Pension Protection Fund, meant—

(a) an individual in receipt of compensation from the Pension Protection Fund, or

(b) an individual who expects to receive such compensation following the assumption of responsibility, by the Board of the Pension Protection Fund, for a scheme of which that individual was a member.

6.—(1) Section 152 of FA 2004 (meaning of "arrangement") applies as if, in Part 4, "arrangement", in relation to an individual specified in paragraph (2), meant an arrangement specified in paragraph (3).

(2) An individual is specified for the purposes of this paragraph if the individual—

(a) is in receipt of compensation from the Pension Protection Fund, or

(b) expects to receive such compensation following the assumption of responsibility, by the Board of the Pension Protection Fund, for a scheme of which that individual was a member.

(3) An arrangement is specified for the purposes of this paragraph if it is an arrangement under which the individual receives (or, as the case may be, expects to receive)—

(a) compensation paid under Schedule 7 to the Pensions Act (pension compensation provisions), or

(b) compensation paid under Schedule 6 to the Pensions Order (pension compensation provisions).

7. Chapter 2 of Part 4 (registration of pension schemes) does not apply in relation to the Pension Protection Fund.

8. Section 164 of FA 2004 (authorised member payments) applies as if it also provided that the Board of the Pension Protection Fund was authorised to make the following payments to or in respect of a member—

(a) payments of an amount falling within section 166(2) of the Pensions Act (duty to pay scheme benefits unpaid at assessment date);

(b) payments of an amount falling within Article 150(2) of the Pensions Order (duty to pay scheme benefits unpaid at assessment date).

9.—(1) For the purposes of Part 4, payment of periodic compensation from the Pension Protection Fund to an individual is treated as payment of a scheme pension to a member of a registered pension scheme (see section 165 of FA 2004: pension rules).

(2) The payment of such compensation is treated as meeting the condition specified in paragraph 2(2)(a) of Schedule 28 to FA 2004 (condition relating to payer of scheme pension).

10.—(1) This regulation applies if—

(a) either condition A or B is met, and

(b) condition C is met.

(2) Condition A is that the Board of the Pension Protection Fund is responsible for securing that compensation is (and has been) paid to an individual in accordance with the pension compensation provisions.

(3) Condition B is that the Board of the Pension Protection Fund is required to secure the discharge of liabilities to an individual in respect of benefits transferred to the Board under—

(a) Chapter 3 of Part 2 of the Pensions Act (pension protection), or

(b) Chapter 3 of Part 3 of the Pensions Order (pension protection).

(4) Condition C is that the Board of the Pension Protection Fund provides for the securing of—

(a) the payment of compensation in the circumstances specified in condition A, or

(b) the discharge of liabilities in the circumstances specified in condition B,

by the entry into an annuity contract or a number of such contracts.

(5) For the purposes of Part 4, payment of an annuity under an annuity contract mentioned in paragraph (4) is treated as payment of a scheme pension.

(6) If this regulation applies, so much of Pension rule 4 in section 165(1) of FA 2004 (pension rules) as provides that a scheme pension may only be paid if the member had an opportunity to select a lifetime annuity instead is treated as omitted.

11.—(1) Section 166 of FA 2004 (lump sum rule) and Part 1 of Schedule 29 to that Act (authorised lump sums: lump sum rule) apply with the following modifications to the payment of lump sums by the Pension Protection Fund to an individual.

(2) Section 166(2) of FA 2004 (time at which a person becomes entitled to a lump sum) applies as if the person becomes entitled to a lump sum when a person acquires an actual (rather than a prospective) right to receive the lump sum.

(3) In Schedule 29 to FA 2004, paragraph 5(1)(a) is treated as omitted.

12.—(1) For the purposes of Part 4, payment of periodic compensation from the Pension Protection Fund to a dependant of an individual is treated as payment of a dependants' scheme pension in respect of a member of a registered pension scheme (see section 167 of FA 2004: pension death benefit rules).

(2) The payment of such compensation is treated as meeting the condition specified in paragraph 16(2)(a) of Schedule 28 to FA 2004 [M12] (condition relating to payer of dependants' scheme pension).

Marginal Citations

M12 Paragraph 16(2) of Schedule 28 was amended by paragraph 27(3) of Schedule 10 to the Finance Act 2005.

13.—(1) This regulation applies if—

(a) either condition A or B is met, and

(b) condition C is met.

(2) Condition A is that the Board of the Pension Protection Fund is responsible for securing that compensation is (and has been) paid to a dependant of an individual in accordance with the pension compensation provisions.

(3) Condition B is that the Board of the Pension Protection Fund is required to secure the discharge of liabilities to a dependant of an individual in respect of benefits transferred to the Board under—

(a) Chapter 3 of Part 2 of the Pensions Act (pension protection), or

(b) Chapter 3 of Part 3 of the Pensions Order (pension protection).

(4) Condition C is that the Board of the Pension Protection Fund provides for the securing of—

(a) the payment of compensation in the circumstances specified in condition A, or

(b) the discharge of liabilities in the circumstances specified in condition B,

by the entry into an annuity contract or a number of such contracts.

(5) For the purposes of Part 4, payment of an annuity under an annuity contract mentioned in paragraph (4) is treated as payment of a dependants' scheme pension.

(6) If this regulation applies, so much of Pension death benefit rule 3 in section 167(1) of FA 2004 (pension death benefit rules) as provides that a dependants' scheme pension may only be paid if the member or dependant had an opportunity to select a dependants' annuity instead is treated as omitted.

14.—(1) Section 168 of FA 2004 (lump sum death benefit rule) and Part 2 of Schedule 29 to that Act (authorised lump sums: lump sum death benefit rule) apply to the payment of lump sums by the Pension Protection Fund to a dependant of a qualifying individual.

(2) In paragraph (1) a "qualifying individual" means an individual who was a member of a scheme for which the Board of the Pension Protection Fund has assumed responsibility.

15. Sections 175 to 181 of FA 2004 (authorised and unauthorised employer payments) do not apply in relation to the Pension Protection Fund.

16. Sections 182 to 185 of FA 2004 (borrowing) do not apply in relation to the Pension Protection Fund.

17.—(1) Section 186 of FA 2004 (exemption from tax on certain types of income) applies in relation to each of the Pensions Act Funds as if in subsection (1) for the reference to income tax there were substituted a reference to corporation tax.

(2) The exemption provided by section 186(1) of FA 2004 (as modified by paragraph (1)) in relation to each of the Pensions Act Funds also applies in respect of—

(a) any profit, gain or loss on a loan relationship within the meaning of Chapter 2 of Part 4 of the Finance Act 1996 [M13] (loan relationships), and

(b) any amount received on account of the Pensions Act levies.

Marginal Citations

M13 1996 c. 8.

18.—(1) Any amount recovered by an individual's employer on account of any of the Pensions Act levies is treated in the same way as relievable pension contributions paid during a tax year (see section 188 of FA 2004: relief for contributions).

(2) In paragraph (1) "tax year" has the meaning given by section 279(1) of FA 2004.

19. Relief on any amount recovered by an individual's employer on account of any of the Pensions Act levies may be given in accordance with section 193 of FA 2004 (relief under net pay arrangements).

20. Sections 197 and 198 of FA 2004 (spreading of relief) do not apply in relation to any sum paid by an employer on account of any of the Pensions Act levies.

21. Section 199 of FA 2004 (deemed contributions) applies in relation to any sum paid by an employer on account of any of the Pensions Act levies as it applies in relation to a sum paid by an employer in or towards the discharge of any liability of the employer under the enactments specified in subsection (1) of that section.

22. Section 213 of FA 2004 (surchargeable unauthorised employer payments) does not apply in relation to the Pension Protection Fund.

23.—(1) For the purposes of benefit crystallisation event 2 (see the Table in section 216(1) of FA 2004) "P" is the amount of the periodic payments which will be payable to the individual in the period of 12 months beginning with the day on which the individual first becomes entitled to a periodic payment (assuming that it remains payable throughout that period at the rate at which it is payable on that day).

(2) Benefit crystallisation event 2 does not apply if—

(a) an individual becomes entitled to a scheme pension under a relevant pension scheme,

(b) the Board of the Pension Protection Fund assumes responsibility for that relevant pension scheme, and

(c) the individual receives periodic compensation from the Pension Protection Fund under Schedule 7 to the Pensions Act or Schedule 6 to the Pensions Order (pension compensation provisions) in respect of the scheme pension mentioned in sub-paragraph (a).

(3) For the purposes of benefit crystallisation event 5 "DP" is the annual rate of periodic compensation to which the individual would be entitled if, on the date on which the individual reaches 75, the individual acquired an actual (rather than a prospective) right to receive it.

(4) Subject to the provisions of this regulation, section 216 of FA 2004 (benefit crystallisation events and amounts crystallised) applies to the payment, by the Board of the Pension Protection Fund, of any amount falling within section 166(2) of the Pensions Act or Article 150(2) of the Pensions Order (duty to pay scheme benefits unpaid at assessment date) in the same way as it would apply if that payment had been made by a registered pension scheme.

(5) Schedule 32 to FA 2004 (registered pension schemes: benefit crystallisation events: supplementary) applies to give the meaning of expressions used in this regulation as it applies to give the meaning of expressions used in the Table in section 216(1) of FA 2004 (benefit crystallisation events and amounts crystallised).

24. Section 242 of FA 2004 (de-registration charge) does not apply in relation to the Pension Protection Fund.

25. Chapter 6 of Part 4 (schemes that are not registered pension schemes) does not apply in relation to the Pension Protection Fund.

26.—(1) References in Part 4 to the scheme administrator, in relation to a pension scheme (see section 270 of FA 2004: meaning of "scheme administrator"), are to be treated as references to the scheme administrator of the Pension Protection Fund.

(2) For the purposes of paragraph (1) the "scheme administrator of the Pension Protection Fund" means the person appointed by the Board of the Pension Protection Fund to be responsible for the discharge of the functions conferred or imposed on the scheme administrator of the Pension Protection Fund by and under Part 4.

27.—(1) If section 272 of FA 2004 (trustees etc. liable as scheme administrator) applies in relation to the Pension Protection Fund, the Board of the Pension Protection Fund assumes liability by reason of that section applying in relation to that Fund.

(2) For the purposes of section 272(4) of FA 2004 (specification of persons assuming liability) the Board of the Pension Protection Fund are treated as persons who assume liability by virtue of being specified under Head 2.

28. Section 273 of FA 2004 (members liable as scheme administrator) does not apply in relation to the Pension Protection Fund.

29.—(1) A lifetime allowance enhancement factor may operate in accordance with paragraph 7 of Schedule 36 (primary protection) in relation to all benefit crystallisation events occurring in relation to an individual in the circumstances specified in paragraph (2).

(2) The circumstances are where some or all of the individual's relevant pre-commencement rights are rights under a pension arrangement relating to that individual under a pension scheme for which the Board of the Pension Protection Fund assumes responsibility in accordance with—

(a) Chapter 3 of Part 2 of the Pensions Act (pension protection), or

(b) Chapter 3 of Part 3 of the Pensions Order (pension protection).

(3) This regulation is to be construed as one with paragraph 7 of Schedule 36.

30.—(1) This regulation applies if there is a transfer to the Board of the Pension Protection Fund of all sums and assets held for the purposes of, or representing accrued rights under, an arrangement relating to an individual under a registered pension scheme.

(2) For the purposes of paragraph 12 of Schedule 36 (enhanced protection) the transfer is treated as a permitted transfer by virtue of sub-paragraph (8)(b) of that paragraph

(3) This regulation is to be construed as one with paragraph 12 of Schedule 36.

31.—(1) For the purposes of Part 3 of Schedule 36 (pre-commencement benefit rights), the transfer of the property, rights and liabilities of a scheme to the Board of the Pension Protection Fund in accordance with a relevant transfer notice is treated as a block transfer within the meaning given by paragraph 22(6) of Schedule 36.

(2) But for the purposes of determining the compensation payable where the Board of the Pension Protection Fund assumes responsibility for a scheme in accordance with Chapter 3 of Part 2 of the Pensions Act or Chapter 3 of Part 3 of the Pensions Order (pension protection), paragraph (1) does not affect the application of—

(a) Schedule 7 to the Pensions Act (pension compensation provisions) or regulations made under that Schedule, or

(b) Schedule 6 to the Pensions Order (pension compensation provisions) or regulations made under that Schedule.

(3) In paragraph (1) a "relevant transfer notice" means—

(a) a transfer notice given under section 160 of the Pensions Act (transfer notice), or

(b) a transfer notice given under Article 144 of the Pensions Order (transfer notice).

32. Paragraphs 35 and 36 of Schedule 36 (winding-up lump sums paid by former approved superannuation funds and right to payment of lump sum death benefit) do not apply in relation to the Pension Protection Fund.

Application of the Inheritance Tax Act 1984: further provisions

33. Section 58 of the Inheritance Tax Act 1984 [M14] (relevant property) applies in relation to property which is held for the purposes of the Pension Protection Fund as it applies in relation to property which is held for the purposes of a registered pension scheme.

Marginal Citations

M14 1984 c. 51. By virtue of section 100(1) and (2) of the Finance Act 1986 (c. 41), on and after 25th July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984, and any reference in that Act to capital transfer tax is to have effect as a reference to inheritance tax, except where the reference relates to a liability arising before 25th July 1986. Section 58 of the Inheritance Tax Act 1984 was amended by section 203(3) of the Finance Act 2004 (c. 12).

34. Section 151 of the Inheritance Tax Act 1984 [M15] (treatment of pension rights) applies in relation to an interest in or under the Pension Protection Fund as it applies in relation to an interest in or under a registered pension scheme.

Marginal Citations

M15 Section 151 was amended by section 203(4) of the Finance Act 2004.

Application of ICTA: further provisions

35.—(1) Section 413(3) of ICTA (group relief: interpretation) applies as if it provided that two companies shall be deemed to be members of a group of companies if—

(a) one company is the 75 per cent. subsidiary of the other and neither company is the Board of the Pension Protection Fund, or

(b) both companies are 75 per cent. subsidiaries of the Board of the Pension Protection Fund.

(2) This regulation is to be construed as one with Chapter 4 of Part 10 of ICTA (group relief).

36.—(1) If the Board of the Pension Protection Fund acquires more than half the ordinary share capital of a company (so that, accordingly, the condition in paragraph (a) of section 769(1) of ICTA [M16] is met), there is no change in the ownership of the company for the purposes of sections 767A to 768E of ICTA [M17] (change in ownership of company).

(2) This regulation is to be construed as one with sections 767A to 768E of ICTA.

Marginal Citations

M16 Section 769(1) was amended by paragraph 4(2) of Schedule 26 to the Finance Act 1995 (c. 4) and by section 116(5) of and paragraph 32 of Schedule 5 to, the Finance Act 1998 (c. 36).

M17 Section 767A was inserted by section 135(1) of the Finance Act 1994 (c. 9) and section 768E was inserted by paragraph 4(3) of Schedule 30 to the Finance Act 2002 (c. 23).

Application of TCGA 1992: further provisions

37.—(1) For the purposes of section 170 of TCGA 1992 (groups of companies), none of the following may be a member of a group—

(a) the Board of the Pension Protection Fund;

(b) the Pension Protection Fund;

(c) the Fraud Compensation Fund.

(2) This regulation is to be construed as one with TCGA 1992.

38.—(1) For the purposes of TCGA 1992, any gain accruing to the Board of the Pension Protection Fund from its disposal of investments shall not be a chargeable gain if, or to the extent that, at the time of the disposal, those investments were held by the Board, or on its behalf, for the purposes of one of the Pensions Act Funds.

(2) In paragraph (1) "investments" includes futures contracts and options contracts.

(3) This regulation is to be construed as one with TCGA 1992.

Application of ITEPA 2003: further provisions

39. Step 5 of section 54(1) of ITEPA 2003 (calculation of deemed employment payment under arrangements made by intermediaries) applies in relation to a payment, by the intermediary, of any sum in respect of any of the Pensions Act levies in the same way as it applies in relation to any contributions that may be deducted under that step.

40. Section 307 of ITEPA 2003 (exemption from employment income for death or retirement benefit provision made by employer) applies in relation to the payment of any sum in respect of any of the Pensions Act levies in the same way as it applies in respect of provision made by an employee's employer for a retirement or death benefit.

41. Section 579A of ITEPA 2003 [M18] (pensions) applies in relation to periodic compensation from the Pension Protection Fund as it applies to any pension under a registered pension scheme.

Marginal Citations

M18 Section 579A was inserted by paragraph 6 of Schedule 31 to the Finance Act 2004.

42. A lump sum paid under Schedule 7 to the Pensions Act or Schedule 6 to the Pensions Order (pension compensation provisions) is treated as if it were a lump sum paid under a registered pension scheme to which subsection (1) of section 636A of ITEPA 2003 [M19] (exemption for certain lump sums under registered pension schemes) applied.

Marginal Citations

M19 Section 636A was inserted by paragraph 11 of Schedule 31 to the Finance Act 2004.

Application of the Finance Act 2003: further provisions

43.—(1) Paragraph 8 of Schedule 4 to the Finance Act 2003 [M20] (debt as consideration) does not apply in relation to the Pension Protection Fund if—

(a) the Board of the Pension Protection Fund acquires a chargeable interest as part of its assumption of responsibility for a scheme in accordance with Chapter 3 of Part 2 of the Pensions Act or Chapter 3 of Part 3 of the Pensions Order (pension protection), and

(b) the chargeable interest is held by the Board of the Pension Protection Fund as an investment.

(2) Paragraph 1 of Schedule 7 to the Finance Act 2003 (group relief) applies in relation to a group of companies of which the Board of the Pension Protection Fund is a member as if, in the case of each reference to 75%, there were substituted a reference to 50%.

(3) For the purposes of paragraph 3(1) of Schedule 7 to the Finance Act 2003 (withdrawal of group relief) there is no withdrawal of group relief if the vendor is the Board of the Pension Protection Fund.

(4) This regulation is to be construed as one with Part 4 of the Finance Act 2003 (stamp duty land tax).

Marginal Citations

M20 2003 c. 14.

Fraud compensation payments and other related payments

44.—(1) Receipt of a payment to which this regulation applies shall not be regarded as a disposal of an asset for the purposes of capital gains tax or for the purposes of corporation tax on chargeable gains.

(2) This regulation applies to—

(a) a fraud compensation payment under section 185 of the Pensions Act;

(b) an interim payment under section 186 of the Pensions Act;

(c) a fraud compensation payment under Article 168 of the Pensions Order;

(d) an interim payment under Article 169 of the Pensions Order;

(e) a payment made by the Board of the Pension Protection Fund under section 83 of the Pensions Act 1995 [M21];

(f) a payment in anticipation made by the Board of the Pension Protection Fund under section 84 of that Act;

(g) a payment made by the Board of the Pension Protection Fund under Article 81 of the Pensions (Northern Ireland) Order 1995 [M22];

(h) a payment in anticipation made by the Board of the Pension Protection Fund under Article 82 of that Order.

Marginal Citations

M21 1995 c. 26.

M22 S.I. 1995/3213 (N.I. 22).

Tom Watson
Vernon Coaker
Two of the Lords Commissioners of Her Majesty's Treasury

9th March 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

In the Pensions Act 2004 (c. 35), Part 2 establishes and deals with the Board of the Pension Protection Fund ("the Board"). The Board is a body corporate, and has two main functions. First, the Board is to administer the Pension Protection Fund, from which compensation will be paid to members of certain pension schemes which are underfunded and no longer have a solvent sponsoring employer; and (secondly) the Board is to administer the Fraud Compensation Fund, from which compensation will be paid to certain pension schemes which no longer have a solvent sponsoring employer in cases of fraud and misappropriation of scheme assets.

In the Finance Act 2004 (c. 12), in Part 4 made new provision relating to pension schemes; and this new provision comes into force on 6th April 2006.

These Regulations, made under powers conferred by section 102 of the Finance Act 2005 (c. 7), make provision, in relation to the Board, the Pension Protection Fund and the Fraud Compensation Fund, for the application of income tax, corporation tax, capital gains tax, inheritance tax, and stamp duty land tax during the period beginning on 6th April 2006.

In these Regulations, regulation 1 deals with citation and commencement, and regulations 2 and 3 with interpretation.

Regulation 4 contains the principal provision, providing that the Tax Acts apply to the Pension Protection Fund in the same way as they apply to a registered pension scheme.

The remaining regulations then make further detailed modifications of tax legislation with the object of ensuring that the tax treatment of the Pension Protection Fund is equivalent to the tax treatment of a registered pension scheme. These regulations include provision to ensure that gains and losses accruing on disposals of investments held by the Board for the purposes of the Pension Protection Fund or the Fraud Compensation Fund are not chargeable gains or allowable losses (regulation 38), and to eliminate any possibility that receipt of a fraud compensation payment or of one of a number of related payments may be liable to capital gains tax or to corporation tax on chargeable gains (regulation 44).

No regulatory impact assessment has been prepared for these Regulations, since the effect on business will be negligible. However, information about the impact of the Pension Protection Fund on business can be found in the Regulatory Impact Assessment for the Pensions Bill 2004, published at www.dwp.gov.uk/resourcecentre/ria.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8th April 2004, and is available on the website of HM Revenue and Customs at www.hmrc.gov.uk/ria/simplifying-pensions.pdf or by writing to the Capital & Savings Ministerial Correspondence Unit, 1st Floor Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

Status:
Point in time view as at 06/04/2006.

Changes to legislation:
There are currently no known outstanding effects for the The Pension Protection Fund (Tax) Regulations 2006.