

- (a) has effect in respect of information relating to payments that are made, or treated as made, on or after 14th October 2013; but
- (b) in the case of a payment made by a former QROPS, does not have effect unless the former QROPS ceased to be a QROPS on or after 14th October 2013.

5. Regulations 16 and 20, so far as relating to former QROPS, have effect only in relation a scheme that ceased to be a QROPS on or after 14th October 2013.

Transitional Provisions

6.—(1) Notwithstanding regulation 3(7) of the Registered Pension Schemes (Provision of Information) Regulations 2006(a) (“the Information Regulations”), the period within which the event report referred to in that regulation must be delivered ends on 12th December 2013 in any case where—

- (a) the event occurred on or after 6th April 2012 and before 14th October 2013; and
- (b) the requirement to deliver the event report arose only by virtue of the coming into force of regulations 7 and 8 of these Regulations.

(2) Notwithstanding regulation 11BA(3)(b) of the Information Regulations, the period within which the information specified in regulation 11BA(2)(c) must be provided ends on 12th December 2013 in any case where—

- (a) the transfer request was made on or after 6th April 2012 and before 14th October 2013; and
- (b) the requirement to provide the information arose only by virtue of the coming into force of regulations 7 and 8 of these Regulations.

(3) Notwithstanding regulation 11BA(4) of the Information Regulations, the period within which the scheme administrator must send the member notification of the requirements specified in regulation 11BA ends on 12th November 2013 in any case where—

- (a) the transfer request was made on or after 6th April 2012 and before 14th October 2013; and
- (b) the requirement to provide the information arose only by virtue of the coming into force of regulations 7 and 8 of these Regulations.

(4) In this regulation “transfer request” has the meaning given in regulation 11BA(1) of the Information Regulations.

Amendment of the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006

7. The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006(d) are amended as follows.

8. In regulation 3 (recognised overseas pension schemes: prescribed countries or territories and prescribed requirements), for paragraph (1) substitute—

“(1) For the purposes of section 150(8) (recognised overseas pension schemes), in addition to satisfying the requirements set out in regulation 2 above, the pension scheme must—

- (a) except where it falls within paragraph (1A), satisfy the requirement in paragraph (6); and

(a) S.I. 2006/567; regulation 3(7) was inserted by S.I. 2012/884.

(b) Regulation 11BA was inserted by S.I. 2012/884.

(c) Regulation 11BA(2) was amended by S.I. 2013/1742.

(d) S.I. 2006/206; amended by S.I. 2007/1600, 2011/1043, 2012/884, 2012/1221.

- (b) satisfy one or more of the following requirements—
 - (i) the requirement that the scheme must be established in a country or territory mentioned in paragraph (2),
 - (ii) the requirement in paragraph (4),
 - (iii) the requirement in paragraph (5).

(1A) A pension scheme falls within this paragraph if it is an overseas public service pension scheme or if it falls within regulation 2(1)(b).

(1B) A pension scheme is an “overseas public service pension scheme” for the purposes of paragraph (1A) if—

- (a) it is established in a country or territory outside the United Kingdom and is either—
 - (i) so established by or under the law of that country or territory, or
 - (ii) approved by the government of that country or territory; and
- (b) it is established for the purpose of providing benefits to individuals for or in respect of services rendered to that country or territory or any political subdivision or local authority thereof.”.

Amendment of the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006

9. The Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 are amended as follows.

10. In regulation 1(2) (interpretation), after the definition of “the Act” omit “and” and insert—

““HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;

“tax identification number” means—

- (a) if the person is resident for tax purposes in the United Kingdom, the unique taxpayer reference (UTR) allocated to that person, and
- (b) if the person is resident for tax purposes outside the United Kingdom, the unique taxpayer reference (UTR) allocated to that person or, if they do not have one, the reference number allocated to that person by the tax authority in the country or territory in which they are resident for tax purposes; and”.

11. In regulation 3, for the heading and paragraph (1) substitute—

“Information — QROPS and former QROPS

3.—(1) For the purposes of section 169(4) (information to be provided by a QROPS or former QROPS), the scheme manager of a QROPS must provide to HMRC—

- (a) the name and address of the scheme, the date of its establishment and the name of the country or territory in which it is established;
- (b) confirmation whether or not the scheme is regulated in the country or territory in which it is established and, if so, the name and address of the regulator and the reference number, if any, allocated by that regulator;
- (c) the name and address of the tax authority for the scheme in the country or territory in which it is established and the reference number, if any, allocated by that tax authority;
- (d) confirmation of the basis on which the scheme satisfies the requirements imposed by regulations 2 and 3 of the Pension Schemes (Categories of Country and

Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006;

- (e) if a scheme satisfies regulation 2(2) of those Regulations solely because it fulfils the requirement in regulation 2(2)(c)(ii), or if a scheme satisfies regulation 3(1)(b) of those Regulations solely because it fulfils the requirement in regulation 3(4), evidence demonstrating that it fulfils the requirement set out in paragraph (ii) or (4), as the case may be;
- (f) the name, address, contact details and legal status of the scheme manager; and
- (g) any information or evidence required in writing, at any time, by HMRC relating to any of the matters referred to in sub-paragraphs (a) to (f).

No information is required to be provided under sub-paragraph (c) if the scheme was established by an organisation to which section 1 of the International Organisations Act 1968(a) applies by virtue of an Order in Council under subsection (1) of that section.

(1A) The information required under paragraph (1)(a) to (f) must be provided—

- (a) five years after the date of the HMRC letter advising the QROPS of the reference number that had been allocated to it, and
- (b) at the end of every succeeding period of five years.

This paragraph is subject to paragraph (1B).

(1B) Where this paragraph applies to a QROPS, paragraph (1A) does not apply and the information required under paragraph (1)(a) to (f) must be provided on the dates notified to the QROPS by HMRC.

(1C) Paragraph (1B) applies to a QROPS if—

- (a) the date of the HMRC letter advising the QROPS of the reference number that had been allocated to it was before 1st April 2010, and
- (b) less than fifteen years have passed since the date of that letter.

(1D) Where paragraph (1A) or (1B) applies, the required information may be provided at any time during the six months prior to the end of each five year period or the notified dates, as the case may be.”.

12. For regulation 3(2) substitute—

“(2) When a QROPS or former QROPS makes, or is treated under the relevant provisions as making, a payment in respect of a relevant member, the scheme manager of the QROPS or former QROPS must provide to HMRC—

- (a) the name, principal residential address, date of birth, contact details, the national insurance number or, if they do not have one, the tax identification number, if any, of the relevant member and if the relevant member has ceased to be resident for tax purposes in the United Kingdom, the date that residence ceased;
- (b) the name, address and contact details of the QROPS or former QROPS and of the scheme manager;
- (c) the date, amount and nature of the payment and if as a result of the payment no relevant transfer fund remains, a statement to that effect;
- (d) if the payment is made to a pension scheme, the name and address of the recipient and if the recipient is a registered pension scheme(b) or a QROPS, the reference number allocated to that pension scheme by HMRC;
- (e) where the relevant member has died and the payment is made to an individual, the name, principal residential address, date of birth and the national insurance number

(a) 1968 c. 48; section 1 was amended by section 1(1) of the International Organisations Act 1981 (c. 9) and S.I. 2005/3542.

(b) Registered pension scheme is defined in section 150(2) of the Finance Act 2004 (c. 12).

or, if they do not have one, the tax identification number, if any, of that individual;
and

- (f) where the relevant member has died and the payment is made to a person who is not an individual, the name and address of that person.

Here “the relevant provisions” means sections 172 to 174A(a), paragraph 2A of Schedule 28(b) and paragraph 3A of Schedule 29(c).

This paragraph is subject to the qualifications in paragraphs (3) and (4).”.

13. In regulation 3(6)(d) after “this regulation” insert “and regulation 3C”.

14. In regulation 3(7)(e) for “and regulation 3B” substitute “, regulation 3B and regulation 3C”.

15. In the heading of regulation 3A(f) (information— transfer of sums or assets) for “qualifying recognised overseas pension scheme” substitute—

“QROPS”.

16. For regulation 3A(1) substitute—

“(1) For the purposes of section 169(4), where paragraph (2) applies the scheme manager of the QROPS (or former QROPS, if the scheme has ceased to be a QROPS) must provide to HMRC such of the information specified in paragraph (3) as may be required in writing by an officer of Revenue and Customs.”.

17. In regulation 3A(2) for “qualifying recognised overseas pension scheme”, in each place, substitute “QROPS”.

18. In the heading of regulation 3B(g) (information—cessation) for “qualifying recognised overseas pension scheme” substitute—

“QROPS”.

19. In regulation 3B—

- (a) after “section 169(4),” insert “the scheme manager of”;
- (b) for “qualifying recognised overseas pension scheme” substitute “QROPS”;
- (c) for “an officer of Revenue and Customs” substitute “HMRC”;
- (d) before sub-paragraph (a) insert—
 - “(za) the name and address of the scheme and the date of and reason for the cessation;”
 - ; and
- (e) in sub-paragraph (b) omit “, if any,” and after “national insurance number” insert “or, if they do not have one, the tax identification number, if any,”.

20. For regulation 3C(h) (information—changes, completion or correction), excluding the heading substitute—

-
- (a) In S.I. 2006/208, by virtue of regulation 1(2), section and Schedule refer to a section of, or Schedule to, the Finance Act 2004 (c. 12). Sections 172A to 172D were inserted by paragraph 38 of Schedule 10 to the Finance Act 2005 (c. 7). Section 172BA was inserted by paragraphs 1 and 13 of Schedule 19 to the Finance Act 2007 (c. 11) and repealed by paragraphs 62 and 68 of Schedule 16 to the Finance Act 2011 (c. 11). Section 174A was inserted by paragraphs 2 and 5 of Schedule 21 to the Finance Act 2006 (c. 25). There are amendments to sections 172 to 174A, the details of which are not relevant to these Regulations.
 - (b) Paragraph 2A of Schedule 28 was inserted by paragraph 12 of Schedule 10 to the Finance Act 2005 and amended by paragraphs 1 and 7(1) and (3) of Schedule 20 to the Finance Act 2007.
 - (c) Paragraph 3A was inserted by section 159 of the Finance Act 2006, amended by paragraphs 23 and 27 of Schedule 16 to the Finance Act 2011 and modified by S.I. 2006/572.
 - (d) Regulation 3(6) was amended by S.I. 2012/884.
 - (e) Regulation 3(7) was inserted by S.I. 2012/884.
 - (f) Regulation 3A was inserted by S.I. 2012/884.
 - (g) Regulation 3B was inserted by S.I. 2012/884.
 - (h) Regulation 3C was inserted by S.I. 2012/884.

“3C.—(1) For the purposes of section 169(4), if at any time after a QROPS or former QROPS has provided HMRC with information in accordance with regulation 3, 3A or 3B it becomes apparent to the QROPS or former QROPS that—

- (a) there is a material change affecting that information; or
- (b) the information is incomplete or contains a material inaccuracy,

the scheme manager of the QROPS or former QROPS must provide to HMRC details of the change, the complete information or correction of the inaccuracy (“the relevant obligation”).

(2) Where paragraph (1) applies the details of the change, the complete information or correction of the inaccuracy must be provided—

- (a) within 30 days beginning with the day on which the change, lack of completeness or inaccuracy becomes apparent to the QROPS or former QROPS; or
- (b) by such other time as may be agreed between an officer of Revenue and Customs and the scheme manager.

(3) No obligation arises under paragraph (1) in respect of a former QROPS if at the time the relevant obligation arises—

- (a) the following conditions are met—
 - (i) more than ten years has elapsed beginning with the date on which the relevant transfer fund in respect of the relevant member came into existence; and
 - (ii) the relevant member to whom the payment is made or treated as made is a person to whom the member payment provisions do not apply (see paragraph 2 of Schedule 34); or
- (b) there is no relevant transfer fund.”.

21. After regulation 4 insert—

“Application and modification of the penalty provisions in Part 7 of Schedule 36 to the Finance Act 2008

5.—(1) Where the scheme manager of a former QROPS is required to provide information under regulation 3(2), 3A(1) or 3C(1), Part 7 of Schedule 36 to the Finance Act 2008**(a)** (penalties) is to apply, with the modifications specified in paragraph (2), to the scheme manager as if—

- (a) that information had been required to be provided by an information notice**(b)** given to the scheme manager under that Schedule; and
- (b) the information notice had specified that the information had to be provided by the time required under regulation 3, 3A or 3C, as the case may be.

(2) The modifications of Part 7 of Schedule 36 to the Finance Act 2008 mentioned in paragraph (1) are as follows—

- (a) in paragraph 39**(c)**, sub-paragraphs (1)**(b)** and (3) are omitted;
- (b) in paragraph 40**(d)**, “or obstruction” is omitted wherever it appears;
- (c) in paragraph 40A(4)**(b)(e)**, “take reasonable steps to” is omitted and “within 30 days beginning with the date on which the inaccuracy becomes apparent” is inserted at the end;

(a) 2008 c. 9.

(b) Information notice is defined in paragraph 6(1) of Schedule 36. Paragraph 6(1) was amended by section 224(1) and (3) of the Finance Act 2012 (c. 14).

(c) Relevant amendments were made by paragraphs 1 and 13 of Schedule 47 to the Finance Act 2009 (c. 10).

(d) Paragraph 40 was amended by paragraphs 1 and 14 of Schedule 47 to the Finance Act 2009.

(e) Paragraph 40A was inserted by paragraphs 1 and 15 of Schedule 47 to the Finance Act 2009 and amended by paragraphs 1 and 3 of Schedule 24 to the Finance Act 2011.

- (d) paragraphs 42 and 43 are omitted;
- (e) in paragraph 45(a), in sub-paragraph (1) “or the obstruction of an officer of Revenue and Customs” is omitted, in sub-paragraph (2)(b) “or obstruction” is omitted and in sub-paragraph (2)(c) “or obstruction” and “, or the obstruction stops,” are omitted;
- (f) in paragraph 46(b), in sub-paragraph (2) “, subject to sub-paragraph (3)” is omitted and sub-paragraph (3) is omitted;
- (g) in paragraph 49(c), in sub-paragraph (1)(a) and (b) “90 days” is substituted for “30 days”;
- (h) in paragraph 49A(d), in sub-paragraph (1)(a) “an information notice” is substituted for “a notice under paragraph 5” and sub-paragraph (6) is omitted;
- (i) paragraphs 50 and 51 are omitted.”.

Amendment of the Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006

22. The Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006(e) are amended as follows.

23. In the penultimate paragraph of Schedule 2 (information which may be supplied electronically) for “and qualifying recognised overseas pension schemes under regulations 2 and 3” substitute “, QROPS and former QROPS under regulations 2 to 3C”.

Amendment of the Registered Pension Schemes etc (Information) (Prescribed Descriptions of Persons) Regulations 2010

24. The Registered Pension Schemes etc (Information) (Prescribed Descriptions of Persons) Regulations 2010(f) are amended as follows.

25. After regulation 2 insert—

“Prescribed descriptions of persons: QROPS and former QROPS

2A.—(1) In relation to a QROPS or former QROPS the description is any person who is, or at any time during the relevant period has been, the scheme manager.

(2) For the purposes of paragraph (1) the relevant period has the meaning given in regulation 2(2), subject to the substitution of “tenth” for “sixth” in regulation 2(2)(b).”.

26. In regulation 3(1) (prescribed description of persons: annuities purchased with pension scheme assets) for “or a pre-2006 pension scheme” substitute “, a pre-2006 pension scheme, a QROPS or a former QROPS”.

*Jennie Granger
Jim Harra*

6th September 2013

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) Paragraph 45 was amended by S.I. 2009/56.
 (b) Paragraph 46 was amended by paragraphs 1 and 17 of Schedule 47 to the Finance Act 2009.
 (c) Paragraph 49 was amended by paragraphs 1 and 20 of Schedule 47 to the Finance Act 2009.
 (d) Paragraphs 49A to 49C were inserted by paragraphs 1 and 4 of Schedule 24 to the Finance Act 2011.
 (e) S.I. 2006/570, to which there are amendments not relevant to these Regulations.
 (f) S.I. 2010/650.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments relating to Registered Pension Schemes, Recognised Overseas Pension Schemes and Qualifying Recognised Overseas Pension Schemes (“QROPS”).

Regulation 2 provides that in relation to QROPS in existence immediately before 6th April 2012, regulations 7 and 8 have effect from that date. Section 282(A1) of the Finance Act 2004 (c. 12) allows regulations made under Part 4 of that Act (including section 150(8)) to include provision having effect in relation to times before the regulations are made if it does not increase any person’s liability to tax.

Regulation 3 provides that the five yearly re-notification requirements imposed on QROPS by regulation 11 will apply from 1st April 2015.

Regulation 4 provides that the additional information requirements imposed by regulation 12 only apply to payments that are made, or treated as made, on or after 14th October 2013 and to former QROPS that ceased to be a QROPS on or after that date.

Regulation 5 provides that so far as regulations 16 and 20 apply to former QROPS, they only apply to former QROPS that ceased to be a QROPS on or after 14th October 2013. Regulations 24 to 26 apply to all former QROPS, including those that ceased to be a QROPS prior to that date.

Regulation 6 makes transitional provision in respect of the requirements for the scheme administrator and member of a registered pension scheme to provide information in relation to transfers from Registered Pension Schemes to QROPS which were in existence immediately before 6th April 2012 and which would have ceased to meet the necessary conditions for QROPS status as at 6th April 2012 but for the coming into force of regulations 7 and 8 of these Regulations. Where the transfer request made by the member to the scheme administrator in respect of the transfer or the transfer itself took place on or after 6th April 2012 but before 14th October 2013, the time limits for the delivery of information from the scheme administrator to Her Majesty’s Revenue and Customs (“HMRC”) and from the member to the scheme administrator are extended.

Regulations 7 and 8 amend regulation 3 of the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 (S.I. 2006/206), to provide that overseas public service pension schemes, and those established outside the UK by an international organisation and falling within regulation 2(1)(b) of those Regulations, are not required to meet the requirement in regulation 3(6) of those Regulations. The requirement in regulation 3(6) is that where tax relief in respect of pension benefits is available to a member of the scheme who is not resident in the country or territory in which the scheme is established, the same or substantially the same tax relief must also be available to a resident member.

The Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) impose information requirements on Qualifying Overseas Pension Schemes and QROPS. Regulations 9 to 21 amend those Regulations to impose additional information requirements on QROPS and to extend the information requirements to former QROPS.

Regulation 11 substitutes new regulations 3(1) to (1D) which impose a new, five yearly, re-notification requirement on QROPS. For QROPS that notified HMRC of their status before April 2010 the requirement is modified in respect of the period prior to their fifteenth anniversary.

Regulation 12 substitutes a new regulation 3(2) which specifies additional information to be provided in relation to payments made by a QROPS and extends that obligation to payments made by former QROPS.

Regulations 15, 17, 18 and 19(b) substitute “QROPS” for references to “qualifying recognised overseas pension scheme” so that the terminology is consistent throughout the Regulations.

Regulation 16 substitutes a new regulation 3A(1) which extends the existing information requirement in relation to transfers made to a QROPS, to require that such information also be provided by former QROPS.

Regulation 19(a), (c), (d) and (e) specifies information to be provided when there is a cessation of a QROPS.

Regulation 20 substitutes a new regulation 3C which extends the existing obligation on QROPS, to correct and update information that has been provided to HMRC, to former QROPS, but imposes a limitation on the obligation for former QROPS. It also amends the time by which information must be corrected and updated. Regulations 13 and 14 make consequential changes.

Schedule 36 to the Finance Act 2008 (c. 9) (“Schedule 36”) contains powers for HMRC to give information notices requiring information and documents from a taxpayer or a third party for the purpose of checking a taxpayer’s tax position.

Regulation 21 applies a modified version of the penalties regime in Part 7 of Schedule 36 to the scheme manager of a former QROPS in respect of the information requirements imposed on former QROPS by regulations 12, 16 and 20.

Regulations 22 and 23 amend the Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006 (S.I. 2006/570) to extend the range of information that a QROPS may submit electronically and to permit the electronic submission of specified information by former QROPS.

Paragraph 34B of Schedule 36 makes special provision in relation to information notices relating to certain pensions matters. Regulations 24 to 26 amend the Registered Pension Schemes etc (Information) (Prescribed Descriptions of Persons) Regulations 2010 (S.I. 2010/650) to prevent HMRC being required to serve two identical information notices on the scheme manager of a QROPS or former QROPS.

A Tax Information and Impact Note covering this instrument was published on 24th May 2013 alongside the draft instrument and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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