
Status: Point in time view as at 06/04/2015.

Changes to legislation: There are currently no known outstanding effects for the The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006. (See end of Document for details)

STATUTORY INSTRUMENTS

2006 No. 206

INCOME TAX

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

<i>Made</i>	- - - -	<i>1st February 2006</i>
<i>Laid before the House of Commons</i>	- - - -	<i>2nd February 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 150(7) and (8) of the Finance Act 2004 ^{M1}, and now exercisable by them ^{M2}, make the following Regulations:

Marginal Citations

M1 [2004 c. 12.](#)

M2 (The functions of the Commissioners of Inland Revenue (“the former Commissioners”), including those under which this instrument is made, were transferred to the Commissioners for Her Majesty's Revenue and Customs (“the new Commissioners”) by section 5 of the [Commissioners for Revenue and Customs Act 2005 \(c. 12\)](#). Section 50 of that Act provides that a reference in any other enactment to the former Commissioners is to be construed as reference to the new Commissioners in so far as is appropriate in consequence of section 5.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 and shall come into force on 6th April 2006.

(2) In these Regulations a reference, without more, to a numbered section or Schedule is a reference to the section of, or Schedule to, the Finance Act 2004 which is so numbered.

Requirements of an overseas pension scheme

2.—(1) For the purposes of section 150(7) (meaning of overseas pension scheme) an overseas pension scheme must—

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- (a) satisfy the requirements in paragraphs (2) and (3); or
 - (b) be established (outside the United Kingdom) by an international organisation for the purpose of providing benefits for, or in respect of, past service as an employee of the organisation and satisfy the requirements in paragraph (4).
- (2) This paragraph is satisfied if—
- (a) the scheme is an occupational pension scheme and there is, in the country or territory in which it is established, a body—
 - (i) which regulates occupational pension schemes; and
 - (ii) which regulates the scheme in question;
 - (b) the scheme is not an occupational pension scheme and there is in the country or territory in which it is established, a body—
 - (i) which regulates pension schemes other than occupational pension schemes; and
 - (ii) which regulates the scheme in question; or
 - (c) neither sub-paragraph (a) or (b) is satisfied by reason only that no such regulatory body exists in the country or territory and—
 - (i) the scheme is established in another member State, Norway, Iceland or Liechtenstein; or
 - (ii) the scheme's rules provide that at least 70% of a member's UK tax-relieved scheme funds will be designated by the scheme manager for the purpose of providing that individual with an income for life, and the pension benefits payable to the member under the scheme (and any lump sum associated with those benefits) are payable no earlier than they would be if pension rule 1 in section 165 applied.
- (3) This paragraph is satisfied if the scheme is recognised for tax purposes.
A scheme is “recognised for tax purposes” under the tax legislation of a country or territory in which it is established if it meets the ^[F1]following conditions].

^[F2]*Condition 1]*

The scheme is open to persons resident in the country or territory in which it is established.

^[F2]*Condition 2]*

The scheme is established in a country or territory where there is a system of taxation of personal income under which tax relief is available in respect of pensions and—

- (a) tax relief is not available to the member on contributions made to the scheme by the individual or, if the individual is an employee, by their employer, in respect of earnings to which benefits under the scheme relate; ^{F3} ...
- ^[F4](ab) the scheme is liable to taxation on its income and gains and is of a kind specified in ^[F5]Schedule 1] to these Regulations; or]
- (b) all or most of the benefits paid by the scheme to members who are not in serious ill-health are subject to taxation.

For the purposes of this condition “tax relief” includes the grant of an exemption from tax.

^[F2]*Condition 3]*

The scheme is approved or recognised by, or registered with, the relevant tax authorities as a pension scheme in the country or territory in which it is established.

^{F6} ...

(4) In the case of an overseas pension scheme falling within paragraph (1)(b) the requirements are that—

- (a) the scheme rules must provide that at least 70% of a member's UK tax-relieved scheme funds will be designated by the scheme manager for the purpose of providing the member with an income for life, and
- (b) the pension benefits payable to the member under the scheme (and any lump sum associated with those benefits) under the scheme must be payable no earlier than they would be if pension rule 1 in section 165 applied.

(5) In this regulation—

“international organisation” means an organisation to which section 1 of the International Organisations Act 1968 ^{M3} applies by virtue of an Order in Council under subsection (1) of that section;

occupational pension scheme“ has the meaning given by section 150(5); and

“UK tax-relieved scheme funds” means, in relation to a member, the sum of the member's UK tax-relieved fund and his relevant transfer fund, as defined respectively by regulations 2 and 3 of the Pension Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 ^{M4}.

Textual Amendments

- F1** Words in reg. 2(3) substituted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **3(2)(a)**
- F2** Words in reg. 2(3) substituted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **3(2)(b)**
- F3** Word in reg. 2(3) omitted (1.7.2007) by virtue of [The Pension Schemes \(Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes\) \(Amendment\) Regulations 2007 \(S.I. 2007/1600\)](#), regs. 1(1), **3(a)**
- F4** Words in reg. 2(3) inserted (1.7.2007) by [The Pension Schemes \(Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes\) \(Amendment\) Regulations 2007 \(S.I. 2007/1600\)](#), regs. 1(1), **3(b)**
- F5** Words in reg. 2(3) substituted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **3(2)(c)**
- F6** Words in reg. 2(3) omitted (6.4.2012) by virtue of [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **3(2)(d)**

Marginal Citations

- M3** 1968 c. 48: section 1(1) was amended by section 1(1) of the [International Organisations Act 1981 \(c. 9\)](#).
- M4** [S.I. 2006/207](#).

Recognised overseas pension schemes: prescribed countries or territories and prescribed ^[F7]requirements]

3.—^[F8](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 ^[F9]the requirements in paragraphs (6) and (6A)]; and
- (b) satisfy one or more of the following requirements—

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- (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.]
- (2) The countries and territories referred to in [F10]paragraph (1)(b)(i)] are—
- (a) the member States of [F11]the European Union], other than the United Kingdom;
 - (b) Iceland, Liechtenstein and Norway; and
 - (c) any country or territory [F12, other than New Zealand,] in respect of which there is in force an Order in Council under section 788 of the Income and Corporation Taxes Act 1988 ^{M5} giving effect in the United Kingdom to an agreement which contains provision about—
 - (i) the exchange of information between the parties, and
 - (ii) non-discrimination.

(3) For the purposes of paragraph (2)(c)(ii) an agreement “contains provision about non-discrimination” if it provides that the nationals of a Contracting State shall not be subjected in the territory of the other Contracting State to any taxation, or any requirement connected to such taxation, which is other than, or more burdensome than, the taxation and connected requirements to which the nationals of the other State are or may be subjected in the same circumstances.

[F13(4) At the time of a transfer of sums or assets which would, subject to these Regulations, constitute a recognised transfer, a pension scheme must satisfy the condition in paragraph (4A) and the rules of that scheme must provide that—

- (a) at least 70% of the sums transferred will be designated by the scheme manager for the purpose of providing the member with an income for life;
- (b) the pension benefits (and any lump sum associated with those benefits) payable to the member under the scheme, to the extent that they relate to the transfer, are payable no earlier than they would be if pension rule 1 in section 165 applied; and
- (c) the scheme is open to persons resident in the country or territory in which it is established.

(4A) Where the pension scheme—

- (a) is established in Guernsey, and
- (b) is an exempt pension contract or an exempt pension trust within the meaning of section 157E of the Income Tax (Guernsey) Law, 1975,]

the scheme must not be open to non-residents of Guernsey.

[F14(5) At the time of a transfer of sums or assets which would, subject to these Regulations, constitute a recognised transfer the scheme must be of a kind specified in Schedule 2 to these Regulations.

(6) Where tax relief in respect of benefits paid from the scheme 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—

- (a) also be available to members of the scheme who are resident in the country or territory; and
- (b) apply regardless of whether the member was resident in the country or territory—
 - (i) when the member joined the scheme; or
 - (ii) for any period of time when they were a member of the scheme.

[^{F15}(6A) The benefits payable to the member under the scheme, to the extent that they consist of the member’s relevant transfer fund, are payable no earlier than they would be if pension rule 1 in section 165 applied.]

(7) For the purposes of paragraph (6) “tax relief”—

- (a) is any tax relief that is available under the system of taxation of personal income in the country or territory in which the scheme is established; and
- (b) includes the grant of an exemption from tax other than an exemption which applies by virtue of double taxation arrangements.

(8) In paragraph (7)(b) “double taxation arrangements” means arrangements made between the country or territory in which the scheme is established and another country or territory with a view to affording relief from double taxation.]

Textual Amendments

- F7** Word in reg. 3 heading substituted (25.5.2012) by [The Pension Schemes \(Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes\) \(Amendment\) Regulations 2012 \(S.I. 2012/1221\)](#), regs. 1, **2(2)(a)**
- F8** Reg. 3(1)-(1B) substituted for reg. 3(1) (with effect in accordance with reg. 2 of the amending S.I.) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/2259\)](#), regs. 1, **8**
- F9** Words in reg. 3(1)(a) substituted (6.4.2015) by [The Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/673\)](#), regs. 1, **3(a)**
- F10** Words in reg. 3(2) substituted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **4(b)(i)**
- F11** Words in reg. 3 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, **3-6**
- F12** Words in reg. 3(2)(c) inserted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **4(b)(ii)**
- F13** Reg. 3(4)(4A) substituted for reg. 3(4) (25.5.2012) by [The Pension Schemes \(Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes\) \(Amendment\) Regulations 2012 \(S.I. 2012/1221\)](#), regs. 1, **2(2)(b)**
- F14** Reg. 3(5)-(8) inserted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **4(d)**
- F15** Reg. 3(6A) inserted (6.4.2015) by [The Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/673\)](#), regs. 1, **3(b)**

Marginal Citations

- M5** 1988 c. 1. Section 788 has been amended by paragraphs 1 and 2 of Schedule 30, and the relevant entry in Part II (13) of Schedule 40 to the [Finance Act 2000 \(c. 17\)](#), **section 88** of the [Finance Act 2002 \(c. 23\)](#) and section 198 of the [Finance Act 2003 \(c. 14\)](#).

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[^{F16}SCHEDULE 1]

Regulation 2(3)

Specified Schemes

Textual Amendments

F16 Sch. renumbered as Sch. 1 (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **5**

A complying superannuation plan as defined in section 995-1 (definitions) of the Income Tax Assessment Act 1997 of Australia .

[^{F17}SCHEDULE 2

Regulation 3(5)

Specified Schemes

Textual Amendments

F17 Sch. 2 inserted (6.4.2012) by [The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/884\)](#), regs. 1(1), **6**

A pension scheme which is a KiwiSaver scheme as defined in section 4(1) (interpretation) of the KiwiSaver Act 2006 of New Zealand.]

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 1 provides for the citation and commencement of the Regulations.

Regulation 2 prescribes the requirements imposed under section 150(7) of the Finance Act 2004 (c. 12) which an overseas pension scheme must satisfy for the purposes of Part 4.

Regulation 3 sets out the requirements prescribed under section 150(8) which an overseas pension scheme must satisfy in order to be treated as a recognised overseas pension scheme. Such a scheme must either be established in another EEA State, or in a country or territory with which the United Kingdom has a double taxation agreement providing for the exchange of information between the fiscal authorities of the United Kingdom and the overseas country or territory and for non-discrimination between UK Nationals and nationals of the overseas country or territory. If it is not established in such a country or territory a scheme may nonetheless be recognised if it satisfies the requirements prescribed in regulation 3(4).

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 8 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.

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