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STATUTORY INSTRUMENTS

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**2012 No. 1221**

**INCOME TAX**

**The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendment) Regulations 2012**

<i>Made</i>	- - - -	<i>3rd May 2012</i>
<i>Laid before the House of Commons</i>	- - - -	<i>4th May 2012</i>
<i>Coming into force</i>	- -	<i>25th May 2012</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the power conferred by section 150(8) of the Finance Act 2004<sup>(1)</sup>, and now exercisable by them<sup>(2)</sup>, make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendment) Regulations 2012 and come into force on 25th May 2012.

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

2.—(1) The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006<sup>(3)</sup> are amended as follows.

(2) In regulation 3 (recognised overseas pension schemes: prescribed countries or territories and prescribed conditions)—

- (a) in the heading for “conditions” substitute “requirements”, and
- (b) for paragraph (4) substitute—

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(1) 2004 c. 12; section 150(4) was amended by S.I. 2007/1388.

(2) Section 150(8) of the Finance Act 2004 refers to the Board of Inland Revenue. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(3) S.I. 2006/206, amended by S.I. 2007/1600 and 2012/884.

“(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(4),

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

*Jim Harra*

*Simon Bowles*

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

3rd May 2012

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(4) Sections 157E to 157M were inserted into the Income Tax (Guernsey) Law, 1975 by the Income Tax (Pension Amendments) (Guernsey) Ordinance 2012 with effect from 26th March 2012.

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## EXPLANATORY NOTE

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

These Regulations amend the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 ([S.I. 2006/206](#)) (“the Overseas Regulations”).

Regulation 1 provides for citation and commencement.

Regulation 2 amends regulation 3 of the Overseas Regulations so as to provide that schemes established in Guernsey which are exempt pension contracts or exempt pension trusts under section 157E of the Income Tax (Guernsey) Law, 1975 cannot be recognised overseas pension schemes if they are open to non-residents of Guernsey.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm> .