
STATUTORY INSTRUMENTS

1993 No. 3220

INCOME TAX

**The Retirement Benefits Schemes (Continuation
of Rights of Members of Approved
Schemes) (Amendment) Regulations 1993**

	<i>22nd December</i>
<i>Made</i> - - - -	<i>1993</i>
<i>Laid before the House of</i>	<i>22nd December</i>
<i>Commons</i> - - - -	<i>1993</i>
<i>Coming into force</i> - -	<i>11th January 1994</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by paragraph 19(2) and (3) of Schedule 6 to the Finance Act 1989(1), hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) (Amendment) Regulations 1993 and shall come into force on 11th January 1994 but shall take effect as from 14th March 1989.

Interpretation

2. In these Regulations “the principal Regulations” means the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(2) and “regulation” means a regulation of those Regulations.

Amendments to the principal Regulations

3. In regulation 3(5)(a) after the words “posting to” there shall be inserted the words “a foreign branch of the employer or to”.

4. After regulation 6 there shall be inserted—

(1) 1989 c. 26.
(2) S.I.1990/2101.

“Modification of paragraph 21 of the Schedule—further provision

6A.—(1) In the circumstances prescribed in paragraph (2) below, paragraph 21(1) of the Schedule shall be modified so as to substitute for the reference to the limitation of 15 per cent. of the employee’s remuneration for the year in respect of the employment a reference to a limitation of 15 per cent. of what would have been his remuneration for the year in respect of the employment if he had not been temporarily absent throughout, or at any time during, that year.

(2) The circumstances prescribed in this paragraph are circumstances where the employee is temporarily absent throughout, or at any time during, a year of assessment and either—

- (a) is not paid any remuneration in respect of the employment for the period of absence, or
- (b) is paid a reduced amount of remuneration for that period.

(3) In this regulation “temporarily absent” in relation to an employee means that the employee—

- (a) has a definite expectation that he will return to service in the employment, and
- (b) does not in the course of his absence become a member of—
 - (i) an approved scheme of another employer who is not a relevant employer, or
 - (ii) a retirement benefits scheme of another employer who is not a relevant employer, which at the time of his becoming a member was before the Board in order for them to decide whether to give approval for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988, or
 - (iii) a personal pension scheme within the meaning of section 630 of the Income and Corporation Taxes Act 1988⁽³⁾ other than a scheme which permits the acceptance only of minimum contributions paid as mentioned in section 638(6)(c) of that Act.”

5. After regulation 7 there shall be inserted—

“Modification of paragraphs 23 and 24 of the Schedule

7A.—(1) In the circumstances prescribed in paragraph (2) below, paragraphs 23(2) and 24(2) of the Schedule shall be modified so as to substitute for the reference in each of those provisions to years of service a reference to years of service that would have been counted if the employee had remained in employment until his normal retirement date.

(2) The circumstances prescribed in this paragraph are circumstances where the employee retires before his normal retirement date as a result of incapacity.

(3) In this regulation—

- (a) “normal retirement date” means the date specified in the rules of the scheme as the date at which the employee will normally retire;
- (b) “incapacity” means physical or mental deterioration which is sufficiently serious to prevent an employee from following his normal employment or which seriously impairs his earning capacity.”

(3) Section 630 was amended by section 55(1) of the Finance Act 1988 (c. 39) and paragraph 17 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48).

22nd December 1993

L. J. H. Beighton
C. W. Corlett
Two of the Commissioners of Inland Revenue

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations, which have effect as from 14th March 1989, amend the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990 (“the principal Regulations”). The principal Regulations prescribe the circumstances in which certain provisions in Part II of Schedule 6 to the Finance Act 1989 (“the Schedule”) (which modify the rules of retirement benefits schemes approved by the Commissioners of Inland Revenue before 27th July 1989), are disappplied or are applied with prescribed modifications. These Regulations prescribe further circumstances in which certain provisions of the Schedule are applied with prescribed modifications and also amend a provision of the principal Regulations.

Regulation 1 provides for citation, commencement and effect, and regulation 2 contains definitions.

Regulation 3 amends sub-paragraph (a) of regulation 3(5) of the principal Regulations so as to extend the circumstances specified in that sub-paragraph to the case where the employee is posted to a foreign branch of the employer.

Regulation 4 inserts a new regulation 6A in the principal Regulations which modifies the application of paragraph 21 of the Schedule where an employee is temporarily absent from his employment throughout or at any time during a year of assessment and is not paid any remuneration in respect of the employment for the period of absence, or is paid a reduced amount of remuneration for that period.

Regulation 5 inserts a new regulation 7A in the principal Regulations which modifies the application of paragraphs 23 and 24 of the Schedule where the employee has retired early through incapacity.

Authority for the retrospective effect of these Regulations is given by paragraph 19(3)(b) of the Schedule.