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## EXPLANATORY NOTE

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

These Regulations concern the requirements which must be satisfied before the employer may receive a payment or distribution of assets from an occupational pension scheme. The requirements are applicable only to exempt approved trust schemes.

Regulations 1 to 3 relate to preliminary matters.

Regulations 4 to 6 relate to payments to the employer from surplus approved under Schedule 22 to the Income and Corporation Taxes Act 1988. Regulation 4 prescribes requirements for notifying members of any proposals to make such a payment. Regulation 5 prescribes the circumstances in which the Occupational Pensions Regulatory Authority (“the Authority”) must be satisfied that all the relevant requirements are met. In a case where the Authority have not confirmed that they are so satisfied, regulation 6 requires that confirmation be obtained from the Authority that the circumstances provided for in regulation 5 do not apply.

Regulations 7 to 10 relate to proposals to exercise a power to distribute excess assets to the employer on the winding up of a scheme. They prescribe, in broadly similar terms, the matters provided for in regulations 4 to 6.

Regulation 10 relates to the requirement, in cases where the scheme prohibits distribution of excess assets to the employer, to increase benefits subject to prescribed limits before making such a distribution. The prescribed limits are the maximum benefits which may be provided by the scheme as an exempt approved scheme.

Regulation 11 makes provision for cases where the scheme rules require modification before a payment or distribution of assets to the employer may be made.

Regulations 12 and 13 provide for sections 37, 76 and 77 of the Pensions Act 1995 (“the 1995 Act”) to be modified in cases where a scheme has more than one employer.

Regulation 14 provides for exemptions from sections 37 and 76 of the 1995 Act.

Regulation 15 provides for revocations and savings.

As all of the regulations contained in this instrument are made either by virtue of, or consequential on, provisions in Part I of the 1995 Act and within 6 months of the coming into force of those provisions, the requirement in section 120(1) of that Act for the Secretary of State to consult such persons as he considers appropriate does not apply.

An assessment of the cost compliance for employers of the measures arising from the Pensions Act 1995, including regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, OPS, 11th Floor, Adelphi, 1 – 11 John Adam Street, London WC2N 6HT.