
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (S.I.2006/207). A pension scheme is a relevant non-UK scheme if scheme funds have been relieved from U.K. tax under exemptions or reliefs for overseas pension schemes, or if it has received a “relevant transfer” from another scheme, representing U.K. tax-relieved funds. A member is a “transfer member” if a relevant transfer related to him.

The principal effects of the amendments are (1) to apply the “taxable property provisions” introduced by Schedule 21 to the Finance Act 2006 (which create tax charges if a scheme directly or indirectly holds an interest in residential property or tangible moveable property) to transfer members of relevant non-UK schemes, so far as the funds are referable to the members' “taxable asset transfer fund” (that is, amounts transferred directly or indirectly from U.K. registered pension schemes) and (2) to provide rules to identify the members' taxable asset transfer fund.

Regulation 1 provides for citation, commencement and effect. The power to make the retrospective provision made by Regulation 1(2) is conferred by paragraphs 7(2)(a) and 7A(2)(b) of Schedule 34 to the Finance Act 2004.

Regulation 2 provides for the amendment of the Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006. Regulations 3, 4 and 6 make technical amendments to those Regulations.

Regulation 5 defines a transfer member's taxable asset transfer fund (which in many cases will form part of their “relevant transfer fund”). Regulations 7 and 8 provide rules to determine if payments are made out of the member's taxable asset transfer fund and relevant transfer fund.

Regulation 9 introduces provisions applying the “taxable property provisions” to transfer members of relevant non-UK schemes, so far as the funds are referable to the members' taxable asset transfer fund, with modifications. The main modification is in the inserted regulation 4B which provides that the scheme chargeable payment provisions in sections 185A to 185I of the Finance Act 2004 (which give rise to a scheme sanction charge on the scheme administrator) are replaced with equivalent unauthorised payments charges on the transfer member.

The Board of Inland Revenue published a regulatory impact assessment covering the provisions of Part 4 of the Finance Act 2004, and subordinate legislation under it, on 8th April 2004. That assessment, and an Appendix covering later legislative changes, are available on the Revenue and Customs website at www.hmrc.gov.uk/ria/simplifying-pensions.pdf.