

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT No. 5)
REGULATIONS 2006

2006 No. 2829

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This memorandum follows the two Explanatory Memoranda for Statutory Instrument 2006/576 (laid before Parliament on 10th March 2006).

- 2.2 These Regulations further amend the Social Security (Contributions) Regulations 2001 (SI 2001/1004). They are made in consequence of the income tax provisions relating to pensions and pension contributions contained in Part 4 of the Finance Act 2004 as amended. They relate to the introduction of the new taxation regime for pension schemes contained in Part 4 of the Finance Act 2004.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1. The Joint Committee is respectfully referred to the two Explanatory Memoranda for Statutory Instrument 2006/576 laid before Parliament on 10th March 2006.

4. **Legislative Background**

- 4.1. This Instrument is made by the Treasury.

- 4.2. The new simplification tax regime for pension savings came into force 6 April 2006. Under the new regime Regulations were laid to provide a disregard from National Insurance contributions for employer contributions into and payments of pension benefits out of registered pension schemes.

- 4.3. Under the previous regime, there was also a National Insurance disregard for contributions to and benefits paid by certain overseas pension schemes. This Instrument ensures that the same disregard will apply to such schemes.

5. **Extent**

- 5.1. These Regulations apply throughout the United Kingdom.

6 European Convention on Human Rights

6.1. These Regulations are subject to annulment and do not amend primary legislation. Accordingly, no statement of compatibility with the European Convention on Human Rights is required.

7. Policy Background

7.1. From 6th April 2006, a new unified pensions tax regime replaced the numerous existing regimes for approved and unapproved pension schemes. The new regime:

- ♦ contains two key controls on tax relief for pension savings, a lifetime allowance and an annual allowance, which replaced the plethora of controls previously in existence.
- ♦ changed the taxation basis of employer contributions to unapproved pension schemes, known as employer financed retirement benefit schemes (EFRBS) and employer financed pension only schemes (EFPOS). Instead of being taxed when an employer contributes to an EFRBS or an EFPOS, the employee will be taxed on the receipt of payments from an EFRBS or an EFPOS.

7.2. SI2006/576 made amendments to the Social Security (Contributions) Regulations 2001 (SI 2001/1004), which came into force on 6 April 2006 to give effect to that taxation policy for National Insurance purposes so that generally the National Insurance and the taxation treatment of employer contributions to and benefits from registered pension schemes, EFRBS and EFPOS match.

7.3. In simple terms, this meant there would be no National Insurance charge on:

- ♦ employer contributions to or benefits paid from a registered pension scheme and certain corresponding foreign schemes;
- ♦ employer contributions to an EFRBS or an EFPOS; and
- ♦ benefits paid from an EFRBS or an EFPOS provided they are generally the same as those that can be paid by a registered pension scheme.

7.4. This instrument makes further amendments to the Social Security (Contributions) Regulations 2001 (SI 2001/1004), and will come into force on 16th November 2006.

7.5. Regulation 3 of this Instrument extends the list of situations in which contributions to, and payments from registered pension schemes and relevant non-UK schemes fall to be disregarded. This ensures the disregard applies to:

- ♦ foreign government schemes,
- ♦ benefits from overseas schemes to the extent that they relate to contributions made before the 6th April 2006, and
- ♦ prevent a double National Insurance charge for benefits subject to an unauthorised payment charge because that charge is set at a level which ensures that National Insurance relief given on the contribution is recovered alongside the tax charge.

- 7.6. Regulation 4 extends the disregard in respect of superannuation funds established in the United Kingdom to which section 615(3) of the Income and Corporation Taxes Act 1988 applies so as to cover both contributions to, and pensions payable by, such funds.
- 7.7. Without these amendments, some contributions to, and payments from, certain foreign schemes would no longer benefit from a disregard that existed previously.
- 7.8. These amendments have been the subject of consultation with the pensions industry, employers and the legal and accountancy professions. The Regulations reflect that consultation process.
- 7.9. HM Revenue & Customs will be announcing this Instrument on its website at www.hmrc.gov.uk and providing guidance to users and stakeholders in the National Insurance Manual.
- 7.10. These amendments will make only a small amendment to the principal 2001 Regulations which are very large. This Department has no current plans to consolidate the 2001 regulations. On the last occasion it was a task involving 18 months work and contributions from four different Government departments.

8. Impact

- 8.1 The impact of these regulations in respect of pension simplification is contained within the Simplifying the taxation of pensions Regulatory Impact Assessment and Appendix which can be found at: www.hmrc.gov.uk/ria/simplifying-pensions.pdf and www.hmrc.gov.uk/ria/simplifying-pensions-appendix.pdf

9.1 Contact

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