
STATUTORY INSTRUMENTS

2017 No. 398

INCOME TAX

The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendments) Regulations 2017

<i>Made</i>	- - - -	<i>14th March 2017</i>
<i>Laid before the House of Commons</i>	- - - -	<i>16th March 2017</i>
<i>Coming into force</i>	- -	<i>6th April 2017</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 150(7) and (8) of the Finance Act 2004(1), and now exercisable by them(2), 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) (Amendments) Regulations 2017 and shall come into force on 6th April 2017.

Amendments to the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006

2. The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006(3) are amended as follows.

Amendment of Regulation 2

3. In regulation 2 (requirements of an overseas pension scheme)—

(a) in paragraph (1)—

(i) insert “subject to paragraph (2A)” at the start of sub-paragraph (a), and

(1) 2004 c. 12. Section 150(8) was amended by section 53 of the Finance Act 2013 (c. 29).

(2) The functions of the Board 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 appropriate in consequence of section 5, a reference in an enactment to the Commissioners of Inland Revenue (however expressed) shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(3) S.I. 2006/206, relevant amending instruments are S.I. 2012/884, 2012/1221, 2013/2259, 2015/673.

- (ii) omit “and satisfy the requirements in paragraph (4)” in sub-paragraph (b);
- (b) in paragraph (2)—
 - (i) for sub-paragraph (c) substitute—
 - “(c) sub-paragraph (a) is not satisfied by reason only that no such regulatory body exists in the country or territory; or”;
 - (ii) after sub-paragraph (c) insert—
 - “(d) sub-paragraph (b) is not satisfied by reason only that no such regulatory body exists in the country or territory and—
 - (i) the scheme is established in another member State, Norway, Iceland or Liechtenstein; or
 - (ii) there is in the country or territory in which the scheme is established a body—
 - (aa) which regulates providers of pension schemes; and
 - (bb) which regulates the provider for the purpose of establishing the scheme in question.”;
- (c) after paragraph 2 insert—
 - “(2A) An overseas public service pension scheme that falls within regulation 3(1B) is deemed to satisfy the requirements in paragraph (2).”(4);
- (d) omit paragraph (4);
- (e) omit the definition of “UK tax-relieved scheme funds” in paragraph (5).

Amendment of Regulation 3

- 4.** In regulation 3 (recognised overseas pension schemes: prescribed countries or territories and prescribed requirements)(5)—
- (a) in paragraph (1)(6)—
 - (i) omit “one or more of” in sub-paragraph (b);
 - (ii) insert “and” at the end of sub-paragraph (b)(i);
 - (iii) in sub-paragraph (b)(ii)—
 - (aa) insert “for schemes established in Guernsey,” before “the”, and
 - (bb) insert “.” after “(4)”; and
 - (iv) omit the rest of sub-paragraph (b);
 - (b) in paragraph (1B) after “(1A)” insert “and regulation 2(2A)”;
 - (c) for paragraph (2)(c)(7) substitute—
 - “(c) any country or territory in respect of which there is in force an Order in Council under section 173 of the Finance Act 2006(8) or section 2 of the Taxation (International and Other Provisions) Act 2010(9) giving effect in the United Kingdom to an agreement which contains provision about the exchange of information between the parties.”;

(4) Paragraph 3(1B) was inserted by S. I. 2013/2259.
 (5) Provision heading was amended by S.I. 2012/1221.
 (6) Paragraph (1) was substituted by S.I. 2013/2259.
 (7) Paragraph (2)(c) was amended by S.I. 2012/884.
 (8) 2006 c. 25.
 (9) 2010 c. 8.

- (d) omit paragraph (3);
- (e) for paragraph 4(10) substitute—
 - “(4) At the time of the transfer of sums or assets which would, subject to these Regulations, constitute a recognised transfer, where the pension scheme is an exempt pension contract or an exempt pension trust within the meaning of section 157E of the Income Tax (Guernsey) Law, 1975(11), the scheme must not be open to non-residents of Guernsey.”;
- (f) omit paragraph (4A)(12);
- (g) omit paragraph (5)(13);
- (h) for paragraph (6A)(14) substitute—
 - “(6A) The benefits payable to the member under the scheme, to the extent that they consist of the member’s relevant transfer fund or ring-fenced transfer funds—
 - (a) are payable no earlier than they would be if pension rule 1 in section 165 applied; or
 - (b) if payable earlier, are only payable in circumstances in which they would be authorised member payments if they were made by a registered pension scheme.”.

Amendment of Schedule 2

5. Omit Schedule 2(15).

14th March 2017

Jennie Granger
Ruth Owen
Two of the Commissioners for Her Majesty’s
Revenue and Customs

(10) Paragraph (4) was substituted by [S.I. 2012/1221](#).
(11) Section 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.
(12) Paragraph (4A) was inserted by [S.I. 2012/1221](#).
(13) Paragraph (5) was inserted by [S.I. 2012/884](#).
(14) Paragraph (6A) was inserted by [S.I. 2015/673](#).
(15) Schedule 2 was inserted by [S.I. 2012/884](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 (S.I. 2006/206) (“overseas pension scheme regulations”), which prescribes the requirements for a scheme to be an overseas pension scheme or a recognised overseas pension scheme.

Regulation 3 removes what is known as the 70% rule from the overseas pension scheme regulations, which required the rules of a scheme to designate a minimum of 70% of the funds that have had UK tax relief to be used to provide the member with an income for life.

Regulation 3 also introduces a requirement that a provider of a scheme which is not an occupational pension scheme must be regulated by a body in the country where the scheme is established if there is no body which regulates schemes that are not occupational pension schemes and the scheme is not established within the European Economic Area.

Regulation 4 amends the requirements for a scheme to be an overseas public service pension scheme. Regulation 4 also enables the country in which the scheme is established to be a prescribed country if there is a tax information exchange agreement providing for the exchange of information between fiscal authorities in the United Kingdom and the overseas country or territory. It also allows a scheme the ability to pay benefits earlier than pension rule 1 provides but only where such payments would be authorised member payments if made by a registered pension scheme.

Regulation 5 removes Schedule 2 to the overseas pension scheme regulations.

A Tax Information and Impact Note covering this instrument was published on 5 December 2016 and is available on the HMRC website at <https://www.gov.uk/government/publications/foreign-pension-schemes>. It remains an accurate summary of the impacts that apply to this instrument.