

## Overseas transfers of UK pension savings

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### Who is likely to be affected?

Scheme managers of qualifying recognised overseas pension schemes (QROPS) and scheme managers of overseas pension schemes that are no longer QROPS that have received transfers of UK pension savings.

### General description of the measure

The purpose of this measure is to strengthen the reporting requirements and powers of exclusion relating to the QROPS regime. The measure supports the changes made to the QROPS regime that took effect from 6 April 2012.

### Policy objective

This measure supports the Government's objective of promoting fairness in the tax system. The measure does this by making changes to the rules for QROPS and for pension schemes that have received transfers of pension savings free of UK tax but are no longer QROPS. It will strengthen reporting requirements and grounds for exclusion and introduce a system of re-notification for QROPS to ensure that scheme managers continue to meet their obligations once they have accepted tax-free transfers of UK pension savings.

### Background to the measure

The measure was announced at Budget 2012 to support the changes that took effect from 6 April 2012. These changes have not been subject to consultation previously.

## Detailed proposal

### Operative date

The measure will have effect on and after the date that Finance Bill 2013 receives Royal Assent.

### Current law

A QROPS is a pension scheme that must be established outside the UK. It must meet other requirements, including the regulatory requirements of pension schemes in the country in which it is established. It must also be recognised for tax purposes as a pension scheme there. In addition the scheme must be established in one of the countries set out in legislation or meet requirements in relation to the payment of pension benefits from the scheme.

These rules are set out in the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006, as amended by the Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2012.

To receive transfers of UK pension savings free of UK tax, the scheme manager of a QROPS has to notify HM Revenue & Customs (HMRC) that the scheme meets the conditions to be a QROPS and undertake to comply with any information requirements. A pension scheme can be excluded from being a QROPS if there has been a failure to provide information that leads to the serious impediment to the assessment or collection of tax or

where the information not provided is substantial. These provisions are set out in section 169 of Finance Act 2004 (FA 2004).

The scheme manager of the QROPS has to report to HMRC the payments it makes out of the transferred UK pension savings to individual members who are UK resident or have been UK resident at any time during the five full tax years before the payment is made. The individual will be subject to the UK tax rules that would apply to similar payments made by a UK registered pension scheme. These tax charges are set out in paragraph 1 of Schedule 34 of FA 2004. A scheme manager of a QROPS is also required to report any payments it makes out of transferred pension savings regardless of where the individual is resident if it is made within 10 years of the transfer from the UK scheme.

These requirements are set out in the Pension Schemes (Information Requirements - Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006.

### Proposed revisions

Legislation will be introduced in Finance Bill 2013 to provide for additional circumstances that may lead to a pension scheme being excluded from being a QROPS including a failure to notify HMRC that a scheme continues to meet the conditions to be a QROPS every five years. The legislation will also provide a power to make regulations to ensure that reporting requirements extend to all transfers of pension savings to a QROPS made free of UK tax.

Secondary legislation will be introduced so that the scheme manager of a pension scheme will continue to report to HMRC payments made out of transfers of pension savings they have accepted from UK pension schemes, even when that scheme has ceased to be QROPS since accepting the transfer.

### Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013. This measure supports the Exchequer in its commitment to protect revenue.					
<b>Economic impact</b>	These changes are not expected to have any significant economic impacts.					
<b>Impact on individuals and households</b>	This measure will not impact on individuals and households.					
<b>Equalities impacts</b>	The changes do not impact any equality group as they will apply to scheme managers of overseas pension schemes. Also the changes do not alter the way pensions tax reliefs and restrictions apply to the nine equality groups.					
<b>Impact on business including civil society organisations</b>	There will be additional reporting requirements for non-UK pension schemes that receive the transfers of UK pension savings but it will still be less than is required from UK schemes and it will be information that legitimate pension schemes are used to providing. There will also be new circumstances in which an overseas scheme can be excluded from being a QROPS but this is expected to have a negligible impact.					

	The changes are intended to improve compliance with the QROPS regime so the main impact is likely to fall on those who do not meet the information obligations that they undertook when notifying HMRC that they met the conditions to be a QROPS.
<b>Operational impact (£m) (HMRC or other)</b>	The changes will have a negligible operational impact on HMRC.
<b>Other impacts</b>	<u>Small firms impact test:</u> Any small or micro QROPS provider firms are anticipated to have the capacity to understand and implement the changes with a negligible impact.  Other impacts have been considered and none have been identified.

### **Monitoring and evaluation**

The measure will be monitored through information collected from notifications, information reported, receipts and other statistics.

### **Further advice**

If you have any questions about this change, please contact Beverley Davies on 020 7147 2869 (email: [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)).

## 1 Overseas pension schemes: general

- (1) In section 150(8) of FA 2004 (meaning of “recognised overseas pension scheme”), for the words from “which” to the end substitute “which satisfies any requirements prescribed for the purposes of this subsection by regulations made by the Commissioners for Her Majesty’s Revenue and Customs.”
- (2) Section 169 of that Act (pension schemes: recognised transfers) is amended as follows.
- (3) In subsection (2)(c), for “any prescribed information requirements imposed on the scheme manager” substitute “any requirements imposed under subsection (4)”.
- (4) For subsection (4) substitute –
  - “(4) Regulations may require the scheme manager of a QROPS or former QROPS to –
    - (a) give the Commissioners information of a prescribed description,
    - (b) give the Commissioners such evidence as they may require of a prescribed matter, and
    - (c) give a prescribed authority, in prescribed circumstances, information of a prescribed description.
  - (4A) Regulations under subsection (4) may make provision as to –
    - (a) the way and form in which information or evidence is to be given, and
    - (b) the times or intervals at which information or evidence is to be given.
  - (4B) The regulations may apply any provision of Part 7 of Schedule 36 to FA 2008 (penalties), with or without modifications, in relation to requirements imposed under the regulations on a former QROPS.”
- (5) In subsection (5) –
  - (a) for “the Inland Revenue has” substitute “the Commissioners have”;
  - (b) for paragraph (a) (but not the “and” at the end of it) substitute –
    - “(a) any of the following conditions is met in relation to the scheme –
      - (i) there has been a failure to comply with a requirement imposed by regulations under subsection (4) and the failure is significant,
      - (ii) any information given pursuant to such a requirement is incorrect in a material respect,
      - (iii) any declaration given pursuant to such a requirement is false in a material respect,
      - (iv) there is no scheme manager;”;
    - (c) in paragraph (b), for “the failure” substitute “that condition being met”.
- (6) For subsection (6) substitute –
  - “(6) A failure to comply with a requirement is significant if –
    - (a) it is a failure to give information or evidence that is (or may be) of significance, or

- (b) there are reasonable grounds for believing that the failure prejudices (or might prejudice) the assessment or collection of tax by the Commissioners.”

(7) After subsection (7) insert –

“(8) In subsections (4) to (6) and this subsection –

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“prescribed” means prescribed by regulations;

“QROPS” means a qualifying recognised overseas pension scheme, and “former QROPS” means a scheme that has at any time been a QROPS;

“regulations” means regulations made by the Commissioners.”

**EXPLANATORY NOTE**

**OVERSEAS PENSION SCHEMES: GENERAL**

**SUMMARY**

1. This clause makes changes to the provisions for qualifying recognised overseas pension schemes (QROPS) in Part 4 of Finance Act 2004. The changes enable HMRC to require overseas pension schemes to provide information which is necessary to ensure the proper operation of the legislation relating to QROPS. In addition there are some new rules about when a pension scheme may be excluded from being a QROPS.

**DETAILS OF THE CLAUSE**

2. Subsection 1 amends section 150 of Finance Act 2004 to clarify the power to make regulations setting out conditions that apply to a “recognised overseas pension scheme”.
3. Subsection 4 substitutes a new section 169(4) of Finance Act 2004 and introduces new sections 169(4A) and (4B). These provisions contain powers enabling HMRC to make regulations setting out information requirements.
4. New subsection 4 enables HMRC to require additional information from a new or existing qualifying recognised overseas pension scheme (QROPS) and will also allow HMRC to obtain information from a pension scheme that has been a QROPS.
5. New subsection 4B provides a power to apply the penalties set out in Part 7 of Schedule 36 to FA 2008 to a failure by a former QROPS to comply with the information requirements mentioned in paragraph 4 of this note.
6. Subsection 5 substitutes a new section 169(5)(a) of Finance Act 2004 to set out the circumstances in which it can be appropriate for a pension scheme to be excluded from being a QROPS.

**BACKGROUND**

7. The UK allows pension savings that have received UK tax relief to be transferred free of UK tax to overseas pension schemes, providing they are within an individual’s lifetime allowance.

8. Pension schemes established outside the UK must meet statutory requirements before they are able to receive these tax-free transfers. Pension schemes that meet these requirements are known as qualifying recognised overseas pension schemes (QROPS).
9. Changes were made to the QROPS regime by secondary legislation on 6 April 2012 and 23 May 2012.
10. In Budget 2012 the Chancellor announced changes to strengthen reporting requirements and powers of exclusion relating to QROPS to support the changes made in secondary legislation.
11. The changes brought about by the clause ensure, for example, that all payments made out of transferred UK pension savings can be required in regulations to be reported to HM Revenue and Customs even when the pension scheme is no longer a QROPS.
12. In addition to the type of information that is currently set out in regulations, the power can, for example, be used to provide that QROPS must provide, at intervals, confirmation that they continue to meet conditions set out in section 169 of Finance Act 2004.
13. The clause also provides for additional cases in which a QROPS may be excluded. These cases are where there is no scheme manager and where there are other particular types of omission to provide information..
14. If you have any questions about these changes or comments on the legislation, please contact Beverley Davies on 020 7147 2869 (email: [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)).

## 2 Overseas pension schemes: information and inspection powers

- (1) Part 6 of Schedule 36 to FA 2008 (information and inspection powers: special cases) is amended as follows.
- (2) In paragraph 34B (registered pension schemes etc) –
  - (a) in sub-paragraph (2), omit the “or” at the end of paragraph (b) and, at the end of paragraph (c) insert –
    - “(d) a QROPS or former QROPS, or
    - (e) an annuity purchased with sums or assets held for the purposes of a QROPS or former QROPS.”;
  - (b) after sub-paragraph (4) insert –

“(4A) In relation to a notice to which this paragraph applies that refers only to information or documents relating to a matter within sub-paragraph (2)(d) or (e), paragraph 20 (old documents) has effect as if the reference to 6 years were to 10 years.”;
  - (c) after sub-paragraph (7) insert –

“(7A) Where the notice relates to a matter within sub-paragraph (2)(d) or (e), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the scheme manager in relation to the pension scheme.”;
  - (d) in sub-paragraph (8), for “and (7)” substitute “to (7A)”.
- (3) In paragraph 34C (registered pension schemes etc: interpretation), insert in the appropriate places –
  - ““QROPS” and “former QROPS” have the meanings given by 169(8) of FA 2004;”;
  - ““scheme manager”, in relation to a pension scheme, has the meaning given by section 169(3) of FA 2004.”
- (4) In paragraphs 34B and 34C of Schedule 36 to FA 2008, references to a former QROPS include a scheme that ceased to be a QROPS before this Act was passed.



**EXPLANATORY NOTE**

**OVERSEAS PENSION SCHEMES: INFORMATION AND INSPECTION POWERS**

**SUMMARY**

1. This clause makes changes to the provisions for qualifying recognised overseas pension schemes (QROPS) and former QROPS in Schedule 36 to Finance Act 2008. The changes ensure that the information and inspection powers for these pension schemes are similar to those for UK pension matters.

**DETAILS OF THE CLAUSE**

2. Subsection 2 amends paragraph 34B of Schedule 36 to Finance Act 2008 to ensure that a notice requiring information or a document in connection with a QROPS or former QROPS may be made in the same way as it is for UK pension matters.
3. New sub-paragraph (4A) provides that a notice requiring old documents in relation to QROPS and former QROPS is extended to documents that originate up 10 years before the date of the notice.
4. Subsection 4 confirms that any change in the application of the information powers in paragraph 34B and 34C of Schedule 36 to Finance Act 2008 to former QROPS will affect all former QROPS, including those that ceased to be a QROPS before this paragraph is enacted.

**BACKGROUND**

5. The information and inspection powers set out in Schedule 36 to Finance Act 2008 apply both to pension schemes established in the UK and those established outside the UK.
6. UK pension schemes are a special case and particular rules apply when HMRC issues a notice to require information or documents from a third party or a person who is not known.
7. The change brought about by the clause ensures that the same rules in relation to inspection and requiring information apply for all pension matters, whether the pension scheme is registered in the UK or is a QROPS or former QROPS.

## **FINANCE BILL**

8. If you have any questions about these changes or comments on the legislation, please contact Beverley Davies on 020 7147 2869 (email: [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)).