

2015 No.

INCOME TAX

Overseas Pension Schemes (Miscellaneous Amendments)
Regulations 2015

Made - - - - *

Laid before Parliament

Coming into force - -

6th April 2015

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 150(7) and (8), 169(4), 251(4) of, and paragraph 5(2) of Schedule 33 to, the Finance Act 2004 make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2015 and shall come into force on 6th April 2015.

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 are amended as follows.

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

(a) in paragraph (2)—

(i) in sub-paragraph (b)(ii) omit the “or” at the end;

(ii) for sub-paragraph (c) substitute—

(c) neither sub-paragraph (a) or (b) is satisfied by reason only that there is no such regulatory body as is mentioned in those sub-paragraphs and the scheme is established in another member State, Norway, Iceland or Liechtenstein; or

(d) neither sub-paragraph (a) or (b) is satisfied by reason only that there is no such regulatory body as is mentioned in those sub-paragraphs and—

(i) the management of the scheme (and of any other such schemes) or the provision of the services provided by the scheme is an activity which is regulated by a body which is in the country or territory in which that scheme is established;

(ii) the scheme manager is regulated by that body in respect of the management of that scheme or the provision of services by that scheme; and

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- (iii) the pension benefits payable to the member under the scheme (and any lump sum associated with those benefits) are payable no earlier than they would be if pension rule 1 in section 165 applied.”; and
- (b) in paragraph (4) omit sub-paragraph (a).

4. In regulation 3 (recognised overseas pension schemes: prescribed countries or territories and prescribed requirements)—

- (a) in paragraph (1)(a) for “the requirement in paragraph (6)” substitute “the requirements in paragraphs (6) and (6A)”;
- (b) in paragraph (2)(c) before “in respect of” insert “in relation to which arrangements having effect by virtue of section 173 of FA 2006 have been made, or”;
- (c) in paragraph (4) from “must provide that” to the end, substitute “must provide that the scheme is open to persons resident in the country or territory in which it is established”;
- (d) after paragraph (6) insert—

“(6A) The pension benefits (and any lump sum associated with those benefits) payable to the member under the scheme, to the extent that they relate to a transfer of sums or assets which would, subject to these Regulations, constitute a recognised transfer or a relevant transfer, are payable no earlier than they would be if pension rule 1 in section 165 applied.”

Amendments to the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006

5. The Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006 are amended as follows.

6. After regulation 3A insert—

“Information provided to member of QROPS or former QROPS by scheme manager where it appears member may be first flexibly accessing pension rights

3AA.—(1) If a relevant event (see paragraph 2) occurs in relation to a member of a QROPS or former QROPS the scheme manager—

- (a) must provide the member with a statement—
 - (i) stating the relevant event, and
 - (ii) explaining the matters specified in paragraph (3), and
 - (b) must do so before the end of the end of 91 days beginning with the date of the relevant event,
- but this is subject to paragraphs (4) and (8).

(c) For the purposes of this regulation—

- (a) if—
 - (i) the member has a member’s flexi-access drawdown fund in respect of an arrangement under the scheme, and
 - (ii) the fund came into existence as a result of sums or assets being designated on or after 6 April 2015 as available for the payment of drawdown pension,
 a relevant event occurs when a qualifying payment is made to the member from the fund;
- (b) if section 165(3A) applied in the individual’s case (in accordance with the application of paragraph 4A of Schedule 34) to an arrangement at any time before

6 April 2015, a relevant event occurs if the individual first flexibly accesses pension rights at the start of 6 April 2015;

- (c) if—
- (i) the member has a member's drawdown pension fund in respect of an arrangement under the scheme, and
 - (ii) the sums or assets that make up the fund become newly-designated funds by the operation of paragraph 8B or 8C of Schedule 28,
- a relevant event occurs when a qualifying payment is made to the member from the member's flexi-access drawdown fund in respect of the arrangement; and
- (d) a relevant event occurs when an uncrystallised funds pension lump sum is paid to the member by the scheme.

(3) The matters mentioned in paragraph (1)(a)(ii) are—

- (a) that a relevant event has occurred in relation to the member and that, as a result, the member has flexibly accessed the member's pension rights (although may first have done so previously);
- (b) that if in any tax year the total of the pension inputs to money purchase arrangements, and certain hybrid arrangements, relating to the member exceeds £10,000—
 - (i) there will be an annual allowance tax charge on the excess; and
 - (ii) the annual allowance for pension inputs to other arrangements relating to the member will be £10,000 less than it would otherwise be; and
- (c) the duties under regulation 3AB and the circumstances in which the member will have to comply with them.

(4) The scheme manager is not required to comply with paragraph (1) if—

- (a) the scheme manager has complied with paragraph (1) in respect of an earlier event; or
- (b) the scheme manager is, at any time before complying with paragraph (1) in relation to the relevant event, informed—
 - (i) by the member, or
 - (ii) by the scheme manager of another QROPS or former QROPS or by the scheme administrator of a registered pension scheme,

that the member flexibly accessed pension rights at a time before the relevant event occurred.

(5) In this regulation and in regulations 3AB to 3AE a reference to a QROPS or former QROPS is a reference to a QROPS or former QROPS to which section 277G applies by virtue of paragraph 9ZA or 9ZB (as the case may be).

(6) In this regulation, a reference to a qualifying payment from a fund is a reference to—

- (a) payment of income withdrawal from the fund, or
- (b) payment of a short-term annuity purchased using sums or assets out of the fund,

but does not include payment at a time when the whole of the fund represents rights attributable to a disqualifying pension credit.

(7) In paragraph (6) "disqualifying pension credit" is to be read in accordance with paragraph 2(3) and (4) of Schedule 29.

(8) This regulation does not apply unless the relevant event occurs when the member—

- (a) is resident in the United Kingdom when the relevant event occurs (or would occur but for this paragraph); or
- (b) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year in which the relevant event occurs or in any of the five tax years immediately preceding that tax year.

Passing-on by member of information under regulation 3AA if active or contributing etc

3AB.—(1) Paragraphs (2) and (3) apply if—

- (a) an individual receives a statement under regulation 3AA from the scheme manager of a QROPS or former QROPS (the “flexed” scheme);
- (b) on the date of the relevant event concerned, or at any later time, the individual is an accruing member of the flexed scheme or of any other QROPS or former QROPS or of any registered pension scheme; and
- (c) the individual—
 - (i) is resident in the United Kingdom on the date that paragraph (b) is met; or
 - (ii) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year or in any of the five years immediately preceding that tax year.

(2) The individual must before the end of the relevant period—

- (a) pass on a copy of the statement, or
- (b) otherwise give notice—
 - (i) of receipt of the statement, and
 - (ii) of the date of the relevant event concerned (if applicable) of its having occurred more than 2 years before the start of the relevant period,

to the scheme manager of each other QROPS or former QROPS and to the scheme administrator of each registered pension scheme of which the individual is an accruing member on any day in the intervening period, but this is subject to paragraph (5).

(3) Where, in the case of a particular QROPS or former QROPS other than the flexed scheme, or another scheme which is a particular registered pension scheme, the individual is not an accruing member of that other scheme on any day in the intervening period but becomes an accruing member of that other scheme on a day (“the activation day”) after the last day of the period, the individual must before the end of the 91 days beginning with the activation day—

- (a) pass on a copy of the statement, or
- (b) otherwise give notice—
 - (i) of receipt of the statement, and
 - (ii) of the date of the relevant event concerned or (if applicable) of its having occurred more than 2 years before the activation day,

to each scheme manager or scheme administrator (as the case may be) of the other schemes; but this is subject to paragraphs (4) and (5).

(4) Paragraph (3) does not apply in connection with the individual becoming an accruing member of any particular scheme if the individual becomes an accruing member of that scheme upon or after becoming a member of that scheme as a result of a transfer of a relevant UK-tax relieved fund or a recognised transfer after the date of the relevant event concerned.

(5) Paragraph (2) or (3), as the case may be, does not require the information concerned to be provided to the scheme manager or administrator (as the case may be) of a particular scheme if the individual has complied with regulation 3AD(2) or (3) or 3AE(2) or (3), or has previously complied with paragraph (2) or (3), in relation to the scheme manager or scheme administrator of that scheme.

(6) For the purposes of this regulation, the individual is an accruing member of a QROPS, former QROPS or a registered pension scheme (as the case may be) on any particular day if—

- (a) the individual is an active member of the scheme on that day as a result of there presently being arrangements for the accrual of benefits to or in respect of the individual under a cash balance arrangement or hybrid arrangement; or
- (b) a relevant contribution is made under the scheme on that day.

(7) For the purposes of this regulation, a relevant contribution is made under a scheme if—

- (a) a relievable pension contribution is paid by or on behalf the individual under a non-cash-balance money purchase arrangement relating to the individual under the scheme;
- (b) a contribution is paid in respect of the individual by an employer of the individual under a non-cash-balance money purchase arrangement relating to the individual under the scheme; or
- (c) a contribution—
 - (i) paid under the scheme by an employer of the individual; and
 - (ii) paid otherwise than in respect of an individual, becomes held for the purposes of a non-cash-balance money purchase arrangement relating to the individual under the scheme,

and in this paragraph “non-cash-balance money purchase arrangement” means a money purchase arrangement other than a cash balance arrangement.

(8) In this regulation—

“the relevant period” means the period of 91 days beginning with—

- (a) the date of receipt if the individual is an accruing member of any scheme on any day in the period—
 - (i) beginning with the date of the relevant event concerned; and
 - (ii) ending with the date of receipt; or
- (b) if not, the first day after the receipt when the individual is an accruing member of a scheme; and

“the intervening period” means the period—

- (a) beginning with the date of the relevant event concerned; and
- (b) ending with the first day of the relevant period.

Information between scheme managers or to scheme administrators on transfers of UK-tax relieved funds

3A C—(1) Paragraph (2) applies if—

- (a) in connection with a member of a QROPS or former QROPS (“the transferring scheme”), there is a transfer of a UK-tax relieved fund from the transferring scheme to another QROPS, another former QROPS or to a registered pension scheme;
- (b) the scheme manager of the transferring scheme has reason to believe that the member first flexibly accessed pension rights before the transfer; and
- (c) the individual—
 - (i) is resident in the United Kingdom on the date that paragraph (b) is met; or
 - (ii) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year or in any of the five years immediately preceding that tax year.

(2) The scheme manager of the transferring scheme must provide the scheme manager or administrator (as the case may be) of the recipient scheme with a statement—

- (a) stating that the scheme manager of the transferring scheme has reason to believe that the member first flexibly accessed pension rights before the transfer; and
 - (b) specifying the date the scheme manager of the transferring scheme understands to be the date when the member first flexibly accessed pension rights.
- (3) The requirement under paragraph (2) is to be complied with before—
- (a) the end of 91 days beginning with the date of the transfer; or
 - (b) if later, the end of 91 days beginning with the date when the scheme administrator of the transferring scheme first has reason for the belief mentioned in paragraph (1)(b).
- (4) References in this regulation to an individual first flexibly accessing pension rights are to be read in accordance with section 227G (see paragraph 9ZB of Schedule 34).

Individual to whom flexible drawdown arrangements applied before 6th April 2015 must tell other schemes if active or contributing etc

3AD.—(1) Paragraphs (2) and (3) apply if—

- (a) at any time before 6th April 2015, section 165(3A) applied to an arrangement relating to an individual under a QROPS or former QROPS (the “flexed” scheme);
- (b) on or after 6th April 2015, the individual is an accruing member (see paragraph (8)) of the flexed or any other QROPS or former QROPS, or of any registered pension scheme; and
- (c) the individual—
 - (i) is resident in the United Kingdom on the date that paragraphs (a) and (b) are met; or
 - (ii) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year or in any of the five years immediately preceding that tax year and paragraphs (a) and (b) are met in that tax year.

(2) The individual must, before the end of the relevant period provide the information specified in paragraph (4) to the scheme manager or scheme administrator (as the case may be) of each QROPS, former QROPS or registered pension scheme of which the individual is an accruing member on the first day of the relevant period; but this is subject to paragraphs (5) and (7).

(3) Where, in the case of a particular QROPS or former QROPS other than the flexed scheme, or another scheme which is a registered pension scheme, the individual is not an accruing member of that other scheme on the first day of the relevant period but becomes an accruing member of that other scheme on a day (“the activation day”) after the first day of that period, the individual must, before the end of 91 days beginning with the activation day, provide the information specified in paragraph (4) to the scheme administrator or scheme manager (as the case may be) of that other scheme; but this is subject to paragraphs (6) and (7).

(4) The information is that, as a result of the application of section 227G(3) to the individual’s case, the individual first flexibly accessed pension rights at the start of 6 April 2015.

(5) Paragraph (2) does not require that information to be provided to the scheme manager or scheme administrator of a particular scheme if, immediately before 6 April 2015, section 165(3A) applied to an arrangement relating to the individual under the scheme.

(6) Paragraph (3) does not require that information to be provided to the scheme manager or scheme administrator (as the case may be) of a particular scheme if the individual becomes an accruing member of that scheme upon or after becoming a member of that scheme as a result of a transfer of a UK-tax relieved fund made to the scheme after 6th April 2015.

(7) Paragraph (2) or (3), as the case may be, does not require that information to be provided to the scheme administrator of a particular scheme if the individual has complied with regulation 3AB(2) or (3) or 3AE(2) or (3) or has previously complied with paragraph (2) or (3), in relation to the scheme manager or administrator (as the case may be) of that scheme.

(8) For the purposes of this regulation, the individual is an accruing member of a scheme on any particular day if—

- (a) the individual is an active member of the scheme on that day as a result of there presently being arrangements for the accrual of benefits to or in respect of the individual under a cash balance arrangement or hybrid arrangement; or
- (b) a relevant contribution is made under the scheme on that day.

(9) For the purposes of this regulation, a relevant contribution is made under a scheme if—

- (a) a relievable pension contribution is paid by or on behalf of the individual under a non-cash-balance money purchase arrangement relating to the individual under the scheme;
- (b) a contribution is paid in respect of the individual by an employer of the individual under a non-cash-balance money purchase arrangement relating to the individual under the scheme; or
- (c) a contribution—
 - (i) paid under the scheme by an employer of the individual, and
 - (ii) paid otherwise than in respect of any individual, becomes held for the purposes of a non-cash-balance money purchase arrangement relating to the individual under the scheme,

and in this paragraph “non-cash-balance money purchase arrangement” means a money purchase arrangement other than a cash balance arrangement.

(10) In this regulation “the relevant period” means the period of 91 days beginning with—

- (a) 6 April 2015 if on that date the individual is an accruing member of any scheme; or
- (b) if not, the first day after 6 April 2015 when the individual is an accruing member of a scheme.

Member to inform other schemes if active or contributing etc and, under paragraph 8C of Schedule 28, drawdown pension fund becomes flexi-access drawdown fund

3AB—(1) Paragraphs (2) and (3) apply if—

- (a) under paragraph 8C of Schedule 28, the drawdown pension fund in respect of an arrangement relating to an individual under a QROPS or former QROPS (the “flexed” scheme) becomes the individual’s flexi-access drawdown fund in respect of the arrangement;
- (b) on the conversion date, or at any later time, the individual is an accruing member (see paragraph (6)) of the flexed or any other QROPS, former QROPS or any registered pension scheme; and
- (c) the individual—
 - (i) is resident in the United Kingdom on the date that paragraph (b) is met; or
 - (ii) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year or in any of the five years immediately preceding that tax year and paragraph (b) is met in that tax year.

(2) The individual must, before the end of the relevant period inform the scheme manager or administrator (as the case may be) of each other QROPS, former QROPS or any

registered pension scheme of which the individual is an accruing member on the first day of the relevant period—

- (a) of the conversion; and
- (b) of the conversion date or (if applicable) of the conversion's having occurred more than 2 years before the start of the relevant period;

but this is subject to paragraph (5).

(3) Where, in the case of a particular QROPS or former QROPS, other than the flexed scheme, or another scheme which is a registered pension scheme, the individual is not an accruing member of that other scheme on the first day of the relevant period but becomes an accruing member of that other scheme on a day ("the activation day") after the first day of that period, the individual must, before the end of the 91 days beginning with the activation day, inform the scheme administrator of that other scheme or registered pension scheme—

- (a) of the conversion; and
- (b) of the conversion date or (if applicable) of the conversion's having occurred more than 2 years before the activation day;

but this is subject to paragraphs (4) and (5).

(4) Paragraph (3) does not apply in connection with the individual becoming an accruing member of any particular scheme if the individual becomes an accruing member of that scheme upon or after becoming a member of that scheme as a result of a recognised transfer after the conversion date.

(5) Paragraph (2) or (3), as the case may be, does not require the information concerned to be provided to the scheme manager or administrator (as the case may be) of a particular scheme if the individual has complied with regulation 2AB(2) or (3) or 3AD(2) or (3), or has previously complied with paragraph (4) or (5) in relation to the scheme manager or administrator (as the case may be) of that scheme.

(6) For the purposes of this regulation, the individual is an accruing member of a scheme on any particular day if—

- (a) the individual is an active member of the scheme on that day as a result of there presently being arrangements for the accrual of benefits to or in respect of the individual under a cash balance arrangement or hybrid arrangement; or
- (b) a relevant contribution is made under the scheme on that day.

(7) For the purposes of this regulation, a relevant contribution is made under a scheme if—

- (a) a relevant pension contribution is paid by or on behalf of the individual under a non-cash-balance money purchase arrangement relating to the individual under the scheme;
- (b) a contribution is paid in respect of the individual by an employer of the individual under a non-cash-balance money purchase arrangement relating to the individual under the scheme; or
- (c) a contribution—

- (i) paid under the scheme by an employer of the individual; and
- (ii) paid otherwise than in respect of any individual,

becomes held for the purposes of a non-cash-balance money purchase arrangement relating to the individual under the scheme,

and in this paragraph "non-cash-balance money purchase arrangement" means a money purchase arrangement other than a cash balance arrangement.

(8) In this regulation "the relevant period" means the period of 91 days beginning with—

- (a) the conversion date if on that date the individual is an accruing member of any scheme; or

- (b) if not, the first day after that date when the individual is an accruing member of a scheme.

Amendments to the Registered Pension Schemes (Provision of Information) Regulations 2006

7. The Registered Pension Schemes (Provision of Information) Regulations 2006 are amended as follows.

8. In regulation 14ZC—

- (a) in the heading after “scheme administrators” insert “and to scheme managers”;
- (b) in paragraph (1)(a) after “another registered pension scheme” insert “or a qualifying recognised overseas pension scheme”; and
- (c) in paragraph (2) after “must provide the scheme administrator” insert “or the scheme manager (as the case may be)”.

Date _____ *Two of the Commissioners for Her Majesty's Revenue and Customs*

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A.Name

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations are made under powers contained in the Finance Act 2004 (“the Act”) and 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”);
- the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) (“information regulations”); and
- the Registered Pension Schemes (Provision of Information) Regulations 2006 (“RPS information regulations”).

Regulation 3 amends the overseas pension scheme regulations by removing one of the conditions, specified in regulation 2 of those Regulations, with which a pension scheme may comply in order to become an overseas pension scheme. This is the requirement that 70% of pension funds will provide an income for life. That condition is replaced by a requirement that the manager of the scheme be regulated by a body where the scheme is established which regulates the management or provision of services by such schemes.

Regulation 4 amends regulation 3 of the overseas pension scheme regulations. Regulation 4 removes from regulation 3 one of the conditions attached to becoming a recognised overseas pension scheme. Where there is a transfer of sums or assets constituting a “recognised transfer” to an overseas pension scheme the scheme rules need no longer require that 70% of the pension

funds are for the provision of an income for life. In addition regulation 4 amends regulation 3 so that for every recognised overseas pension scheme the pension benefits must be payable no earlier than if pension rule 1 in section 165 of the Act applied.

Regulations 5 and 6 amend the information regulations so as to create a system of reporting of information for the purposes of the annual allowance charge similar to that applicable to registered pension schemes where individual members have flexibly accessed their pension benefits.

- The scheme manager is required to provide information to the member where flexible access occurs.
- A qualifying recognised overseas pension scheme must provide information when there is a transfer of UK tax relieved funds from that scheme to the recipient scheme. The information concerns whether the member has flexibly accessed their pension savings.
- Where a member flexibly accesses benefits under a relevant non-UK scheme the member must inform scheme managers and administrators of all the other schemes of which the member is an active member.

Regulations 7 and 8 amend the RPS information regulations to provide that where there is a recognised transfer of sums or assets from a registered pension scheme ("RPS") to a qualifying recognised overseas pension scheme ("QROPS"), the scheme administrator of the RPS must provide information concerning the member's flexible access to pension benefits.

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