STATUTORY INSTRUMENTS

# 1990 No. 585

# INCOME TAX

# The Occupational Pension Schemes (Additional Voluntary Contributions) (Amendment) Regulations 1990

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| *Made - - - -* | *13th March 1990* |
| *Laid before the House of Commons* | *14th March 1990* |
| *Coming into force* | *4th April 1990* |

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 612(3) of the Income and Corporation Taxes Act 1988(**a**), hereby make the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Occupational Pension Schemes (Additional Voluntary Contributions) (Amendment) Regulations 1990 and shall come into force on 4th April 1990.

**Interpretation**

**2.** In these Regulations the "Principal Regulations" means the Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987(**b**).

**Amendments to the Principal Regulations**

**3.**—(1) In regulation 2(1) of the Principal Regulations after the definition of "the Board" there shall be inserted–

"permitted maximum contributions" in relation to a year of assessment means–

(a) 15 per cent. of a scheme member's remuneration, or

(b) if section 592(8B) of the Income and Corporation Taxes Act 1988(**c**) has effect as regards a scheme member's remuneration, 15 per cent. of his permitted maximum remuneration;

"permitted maximum remuneration" in relation to a year of assessment means the figure found for that year by virtue of section 592(8D) and (8E) of the Income and Corporation Taxes Act 1988(**d**);

"remuneration" shall be interpreted in accordance with section 612(1) of the Income and Corporation Taxes Act 1988;".

(2) After regulation 2(1) of the Principal Regulations there shall be inserted–

"(1A) For the purposes of these Regulations a person is a controlling director of a company if he is a director (as defined by section 612(1) of the Income and Corporation Taxes Act 1988), and he is within paragraph (b) of section 417(5) of that Act, in relation to the company."

(**a**) 1988 c.1; section 612(3) is extended by section 593(1) and (4).
(**b**) S.I. 1987/1749.
(**c**) Subsection (8B) was inserted by the Finance Act 1989 (c.26), Schedule 6, paragraphs 5(4) and 18(4).
(**d**) Subsections (8D) and (8E) were inserted by the Finance Act 1989 (c.26), Schedule 6, paragraphs 5(4) and 18(4).

**4.** For regulation 4 of the Principal Regulations there shall be substitiuted–

"**4.** The prescribed cases are cases where an employee contributes as a scheme member to a retirement benefits scheme which–

(a) is one to which his employer is not a contributor and which provides benefits additional to those provided by a retirement benefits scheme or a relevant statutory scheme to which his employer is a contributor, and

(b) is an exempt approved scheme within the meaning of section 592(1) of the Income and Corporation Taxes Act 1988;

and in these Regulations unless the context otherwise requires references to a "scheme" shall be construed as references to such a scheme and references to "his employer" shall be construed as references to any employer of the scheme member to whom paragraph (a) applies."

**5.**—(1) For regulation 5(1) of the Principal Regulations there shall be substituted–

"(1) The prescribed conditions are that the scheme member has–

(a) at or before the time at which he first pays a contribution from which he deducts an amount equal to income tax at the basic rate on the contribution, and

(b) at any time after that time, within 30 days of having been required to do so by notice in writing given by the scheme administrator,

furnished to the scheme administrator in writing the particulars, declarations and undertaking specified in paragraphs (2), (3) and (4) respectively; and references in those paragraphs to his remuneration, or his permitted maximum remuneration, are to that for the year of assessment in which he first pays such a contribution, or for the year of assessment specified in the notice, as the case may require."

(2) In regulation 5(2) of the Principal Regulations–

(a) after sub-paragraph (a) there shall be inserted–

"(aa) his date of birth;";

(b) in sub-paragraph (c) the words "for the year of assessment" shall be omitted;

(c) in sub-paragraph (d) for the words "who makes contributions" to the end there shall be substituted–

"who makes contributions to–

(i) a retirement benefits scheme approved under section 591 of the Income and Corporation Taxes Act 1988(**a**),

(ii) a retirement benefits scheme which is before the Board in order for them to decide whether to give approval under the said section 591, or

(iii) a relevant statutory scheme within the meaning of section 611A of the said Act(**b**)"; and

(d) after sub-paragraph (e) there shall be inserted–

"(f) the amount, expressed as a monetary sum or as a percentage of–

(i) his remuneration, or,

(ii) if section 592(8B) of the said Act has effect as regards his remuneration, his permitted maximum remuneration,

which he is paying for the relevant year of assessment to the retirement benefits scheme or relevant statutory scheme referred to in sub-paragraph (d).".

(3) After regulation 5(2) there shall be added–

"(3) The declarations specified in this paragraph are declarations signed by the scheme member that to the best of his knowledge and belief–

(a) benefits are currently accruing to him under the retirement benefits scheme or relevant statutory scheme referred to in paragraph (2)(d);

(b) the aggregate of all contributions–

(i) made to the scheme in relation to which the declaration is made, and

(**a**) Subsections (5) and (6) were amended by the Finance Act 1988 (c.39), section 146 and Schedule 13, paragraph 6.
(**b**) Section 611A was inserted by the Finance Act 1989 (c.26), Schedule 6, paragraph 15.

(ii) made by him to the retirement benefits scheme or relevant statutory scheme referred to in paragraph (2)(d),

will not exceed and, unless the declaration is made in the circumstances described in paragraph (1)(a), has not exceeded his permitted maximum contributions;

(c) he is neither–

(i) paying contributions to any other scheme which provides benefits additional to those provided by the retirement benefits scheme or relevant statutory scheme referred to in paragraph (2)(d), nor

(ii) where his employer is a company, a controlling director of the company;

(d) the particulars specified in paragraph (2) and furnished by him to the scheme administrator are correct and complete.

(4) The undertaking specified in this paragraph is an undertaking by the scheme member that he will within 30 days give notice in writing to the scheme administrator if–

(a) he ceases to be employed by the employer referred to in paragraph (2)(d), or

(b) benefits cease to accrue to him under the retirement benefits scheme or relevant statutory scheme referred to in paragraph (2)(d), or

(c) where his employer is a company, he becomes a controlling director of the company.".

**6.** In regulation 13(4) of the Principal Regulations–

(a) after the words "All particulars" there shall be inserted ", declarations and undertakings";

(b) for the words "three years" there shall be substituted "six years";

(c) for the words "be a member of a scheme" there shall be substituted "pay contributions to a scheme".

*A. J. G. Isaac*
*L. J. H. Beighton*
Two of the Commissioners of Inland Revenue

13th March 1990

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 4th April 1990, amend the Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987 ("the Principal Regulations").

Regulation 1 provides for citation and commencement and regulation 2 contains a definition.

Regulation 3 inserts in regulation 2 of the Principal Regulations definitions of "permitted maximum contributions", "permitted maximum remuneration" and "remuneration" and provides for the construction of references to a controlling director in those Regulations.

Regulation 4 substitutes a new regulation 4 of the Principal Regulations which contains a revised description of the cases in which relief for additional voluntary contributions is to be given in accordance with section 593 of the Income and Corporation Taxes Act 1988.

Regulation 5(1) substitutes a new paragraph (1) of regulation 5 of the Principal Regulations which contains a revised statement of the conditions subject to which relief is to be given. Regulation 5(2) amends regulation 5(2) of the Principal Regulations, in which the particulars which a scheme member is required to furnish are specified, and regulation 5(3) adds new paragraphs (3) and (4) to regulation 5 of the Principal Regulations to provide for the furnishing of declarations and undertakings by scheme members.

Regulation 6 amends regulation 13(4) of the Principal Regulations so as to secure that all particulars, declarations and undertakings furnished under Regulation 5 of the Principal Regulations must be preserved for a period of six years (previously, three years) following the date on which the scheme member to whom they relate ceased to pay contributions to a scheme (previously, ceased to be a member of a scheme).

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