STATUTORY INSTRUMENTS

2007 No. 1600

INCOME TAX

The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendment) Regulations 2007

Made - - - -	*4th June 2007*
Laid before the House of Commons	*5th June 2007*
Coming into force - -	*1st July 2007*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 150(7) of the Finance Act 2004(**a**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendment) Regulations 2007 and shall come into force on 1st July 2007.

(2) In these Regulations "the principal Regulations" means the Pensions Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006(**b**).

Amendment of the principal Regulations

2. The principal Regulations are amended as follows.

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

(a) at the end of paragraph (a) omit "or", and

(b) after paragraph (a) insert —

"(ab) the scheme is liable to taxation on its income and gains and is of a kind specified in the Schedule to these Regulations; or".

4. At the end of the principal Regulations add the Schedule set out as the Schedule to these Regulations.

Mike Hanson
Steve Lamey

4th June 2007 — Two of the Commissioners for Her Majesty's Revenue and Customs

(**a**) 2004 c.12. The functions of the Commissioners of Inland Revenue, including those under which this instrument is made, were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference in any other enactment to the Commissioners of Inland Revenue is to be construed as a reference to the Commissioners for Her Majesty's Revenue and Customs in so far as is appropriate in consequence of section 5.

(**b**) S.I. 2006/206.

SCHEDULE

Regulation 2(3)

Specified Schemes

A complying superannuation plan as defined in section 995-1 (definitions) of the Income Tax Assessment Act 1997 of Australia (**a**).

(**a**) The Income Tax Assessment Act 1997 of Australia was amended by the Tax Law Amendment (Simplified Superannuation) Act 2007 of Australia. The terms used in the definition of "complying superannuation plan" are further defined in the Superannuation Industry (Supervision) Act 1993 of Australia and the Retirement Savings Accounts Act 1997 of Australia.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 ("the principal Regulations") and will come into force on 1st July 2007.

The principal Regulations impose various requirements that need to be met in order for a scheme to be an overseas pension scheme and a recognised overseas pension scheme.

One of the requirements in regulation 2 of the principal Regulations for being an overseas pension scheme is that the scheme must be recognised for tax purposes by meeting primary conditions 1 and 2 and one of Conditions A and B. These Regulations amend primary condition 2. Primary condition 2 provided that the pension scheme must be established in a country or territory with a system of taxation of personal income under which tax relief is available in respect of pensions, but under which either tax relief is not available to the individual member on contributions made to the scheme or all or most of the pension benefits paid by the scheme are subject to taxation. These Regulations amend this condition to provide a third way of satisfying it, namely that the scheme is liable to taxation on its income and gains and must also be of a kind specified in the Schedule to the Regulations.

This amendment is necessary as Australia has introduced a new way of taxing pensions which will be introduced on 1st July 2007. This amendment will mean that Australian schemes can continue to be overseas pension schemes and that they can continue to be capable of being qualifying recognised overseas pension scheme within section 169(2) (recognised transfers) of the Finance Act 2004 and qualifying overseas pension schemes within paragraph 5 of Schedule 33 (overseas pension schemes: migrant member relief) to the Finance Act 2004.

The Australian legislation referred to in this instrument can be found at the website, http://law.ato.gov.au.

A Regulatory Impact Assessment has not been prepared for this instrument as it is expected to have only a negligible administrative impact on business, charities or voluntary bodies.

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