STATUTORY INSTRUMENTS

2006 No. 147

PENSIONS

The Personal Pension Schemes (Appropriate Schemes) (Amendment) Regulations 2006

Made - - - -	*26th January 2006*
Laid before Parliament	*1st February 2006*
Coming into force - -	*6th April 2006*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 9(5)(a), 181(1) and 182(3) of the Pension Schemes Act 1993(**a**).

In accordance with section 185(1) of that Act(**b**) he has consulted such persons as he considers appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal Pension Schemes (Appropriate Schemes) (Amendment) Regulations 2006 and shall come into force on 6th April 2006.

(2) In these Regulations, "the principal Regulations" means the Personal Pension Schemes (Appropriate Schemes) Regulations 1997(**c**).

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations(**d**) (interpretation) in the appropriate alphabetical places insert the following definitions—

> ""deposit-taker" has the meaning given to it by section 49(8A) of the Pensions Act 1995(**e**);
>
> "EEA State" means a State, other than the United Kingdom, which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being;
>
> "Home state regulator" has the meaning given to it by Part 1 of Schedule 3 to the Financial Services and Markets Act 2000(**f**) (interpretation);
>
> "open-ended investment company"—

(**a**) 1993 c.48; section 181(1) is cited because of the meaning given to "prescribed" and "regulations".
(**b**) Section 185(1) of the Pension Schemes Act 1993 was amended by paragraph 46 of Schedule 3, paragraph 80 of Schedule 5 and Part 1 of Schedule 7, to the Pensions Act 1995 (c.26).
(**c**) S.I. 1997/470; relevant amending instruments are S.I. 2001/943 and 3649.
(**d**) Regulation 1(2) was amended by S.I. 2001/3649.
(**e**) 1995 c.26. Subsection (8A) was inserted by S.I. 2001/3649.
(**f**) 2000 c.8.

(a) has the meaning given to it by section 236 of the Financial Services and Markets Act 2000 (open-ended investment companies); and

(b) includes UCITS situated in an EEA State which has been authorised by the Home state regulator of that EEA State and is a recognised scheme;

"recognised scheme" means a scheme recognised under section 264, 270 or 272 of the Financial Services and Markets Act 2000 (the provisions set out the criteria that an overseas scheme must meet in order for it to be a recognised scheme);

"UCITS" means an undertaking for collective investment of transferable securities within the meaning of Article 1 of Council Directive 85/611 as amended by European Parliament and Council Directive 2001/108/EC;

"unit trust scheme" has the meaning given to it by section 237 of the Financial Services and Markets Act 2000 (defines various terms referred to in Chapter 1 of Part 17 of the Act).".

Amendment of regulation 2 of the principal Regulations

3.—(1) Regulation 2 of the principal Regulations (forms of schemes which may be appropriate schemes) shall be amended as follows.

(2) In paragraph (1), for sub-paragraph (a) substitute—

"(a) it is a tax registered scheme; and".".

(3) In paragraph (2), after sub-paragraph (c) add—

"(d) an arrangement for the investment of contributions in an open-ended investment company.".

(4) After paragraph (2) add—

"(2A) The rules or provisions of the personal pension scheme may provide for the scheme to hold any pension arrangement in addition to the description of pension arrangement referred to in paragraph (1)(b) if the condition specified in paragraph (2B) is satisfied.

(2B) The condition referred to in paragraph (2A) is that the rules or provisions of the scheme must not allow a member's protected rights to be held in a pension arrangement which falls outside the description of pension arrangement referred to in paragraph (1)(b).".

(5) For paragraph (4)(**a**) substitute—

"(4) In this regulation—

(a) "protected rights" has the meaning given to that expression in section 10 of the 1993 Act (protected rights and money purchase benefits);

(b) "self-invested personal pension scheme" means a personal pension scheme, the arrangements made in accordance with which by a member—

(i) are arrangements under which the member is able to direct the manner in which some or all of the contributions paid to the scheme are to be invested by the scheme administrators; and

(ii) are not arrangements falling within paragraph (5) or (6);

(c) "tax registered scheme" means a scheme which from 6th April 2006 is, or is treated as, registered under section 153 of the Finance Act 2004(**b**) (registration of pension schemes).

(5) Arrangements which fall within this paragraph are arrangements under which—

(a) all the investments held for the purposes of the scheme comprise contracts or policies of insurance, units in unit trust schemes or shares in an open-ended investment company; and

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(**a**) Paragraph (4) of regulation 2 was inserted by S.I. 2001/943.
(**b**) 2004 c.12.

(b) in managing those investments, the scheme administrators do not consult with any member of the scheme except to the extent necessary by virtue of the investment offering choices that are available to any person (whether or not a member of the scheme).

(6) Arrangements which fall within this paragraph are arrangements under which—

(a) all contributions paid are, after the deduction of expenses, invested in deposits with deposit-takers; and

(b) the payment of interest on those deposits comprises the only income of the scheme from its investments.".

Amendment of regulation 3 of the principal Regulations

4.—(1) Regulation 3 of the principal Regulations (persons who and bodies which may establish schemes) shall be amended as follows.

(2) In paragraph (1), after sub-paragraph (b) add—

"(c) regulation 2(2)(d) can be an appropriate scheme only if it is established by an authorised corporate director of an open-ended investment company.".

(3) After paragraph (5) add—

"(6) In paragraph (1)(c)—

"an authorised corporate director" has the same meaning as in the Open-ended Investment Companies (Tax) Regulations 1997(**a**).".

Signed by authority of the Secretary of State for Work and Pensions.

Stephen C. Timms
Minister of State,
Department for Work and Pensions

26th January 2006

(**a**) S.I. 1997/1154, amended by S.I. 1997/1715, 2001/3629, 2002/1973, 2003/1831 and 2004/2310.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Personal Pension Schemes (Appropriate Schemes) Regulations 1997 (S.I. 1997/470) ("the principal Regulations").

Regulation 2 inserts new definitions into the principal Regulations.

Regulation 3(2) amends regulation 2(1)(a) of the principal Regulations to provide for the tax registration of schemes as a consequence of the Finance Act 2004 (c.12).

Regulation 3(3) inserts a new sub-paragraph (d) in regulation 2(2) of the principal Regulations to add to the forms of scheme which qualify as an appropriate personal pension scheme. For an arrangement under new sub-paragraph (d) to qualify as an appropriate personal pension scheme it must be established by an authorised corporate director of an open-ended investment company (see regulation 4(2) of these Regulations which amends regulation 3 of the principal Regulations).

Regulation 3(4) inserts new paragraphs into regulation 2 of the principal Regulations. New paragraphs (2A) and (2B) specify that the rules of a scheme may provide for the scheme to hold any pension arrangement in addition to the pension arrangement described in regulation 2(1)(b) of the principal Regulations; it also provides that the rules of the scheme must not allow a member's protected rights to be held in a pension arrangement which falls outside regulation 2(1)(b).

Regulation 3(5) amends regulation 2(4) of the principal Regulations to include definitions of terms used in regulation 2 as amended. In particular, it provides a definition of "self-invested personal pension scheme" necessary because of the lapse of the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117) on the 6th April 2006, in consequence of the repeal of section 638A of the Income and Corporation Taxes Act 1988 (c.1) under which they were made. Section 638A of the Income and Corporation Taxes Act 1988 is repealed by Part 3 of Schedule 42 to the Finance Act 2004 (c.12) with effect from 6th April 2006.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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