EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (AUTHORISED PAYMENTS) (AMENDMENT) REGULATIONS 2013

2013 No. 1818

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These regulations bring the pensions tax legislation into line with Department for Work and Pensions legislation. The amendments result from the abolition of contracting out of the state second pension through a defined contribution (money purchase) pension scheme from 6 April 2012.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 The instrument contains a provision having effect from 6 April 2013 which is before the instrument comes into force, using the power in section 282(A1) of the Finance Act 2004.

4. Legislative Context

4.1 The provisions of the Finance Act 2004 which relate to contracting out through a defined contribution pension scheme were amended by the Finance Act 2013, to bring them into line with the amendments made to the Pension Schemes Act 1993 by the Pensions Acts 2007 and 2008. Related changes also need to be made to SI 2009/1171 to reflect the fact that contracting out through a defined contribution pension scheme was abolished from 6 April 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Before 6 April 2012, it was possible to contract out of the state second pension (the additional earnings-related element of the state pension) through a defined contribution pension scheme. The employer and employee paid lower rates of National Insurance to HMRC, but the balance was paid into the contracted out scheme along with a rebate from HMRC. This meant that the contracted out scheme was responsible for providing the additional pension, rather than the state. In recognition of this, the pensions tax legislation made provision regarding tax treatment of contracted out contributions and rebates of National Insurance contributions.

7.2 From 6 April 2012, contracting out through a defined contribution scheme was abolished, under legislation introduced by DWP in Pensions Acts 2007 and 2008. Certain provisions of the tax legislation are therefore no longer needed and could cause confusion if they remain on the statute book.

7.3 The Finance Act 2013 amended the pensions tax primary legislation to remove or amend the relevant provisions, bringing it in line with the Pensions Acts. Some provisions will however still be needed to cater for late payments, repayments or recoveries and certain administrative functions to be carried out. The legislation will continue in force in relation to these specific provisions, where they are in respect of contracted out periods before 6 April 2012.

7.4 As well as the primary legislation, statutory instrument SI 2009/1171 contains references to contracting out through a defined contribution scheme. These regulations are also being amended, to reflect the fact that contracting out through a defined contribution scheme has ceased from 6 April 2012.

- ***Consolidation***

7.5 HMRC has no plans to consolidate these regulations with the existing legislation.

8. Consultation outcome

8.1 The instrument was published in draft on 4 February 2013. There were no major issues raised. Some clarification was sought and this has been reflected in the instrument.

9. Guidance

9.1 HMRC's published guidance (the Registered Pension Schemes Manual) will be updated to reflect the changes at the earliest opportunity.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note concerning this instrument was published on 11th December 2012 alongside the draft Finance Bill 2013 clauses and is available on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There are no additional requirements imposed by this instrument. The only impact on firms employing up to 20 people is for them to be aware, along with larger firms, that the legislation has been amended to align with the current DWP legislation. The burden is minimal.

12. Monitoring & review

12.1 The nature of this instrument means that it does not require separate monitoring or evaluation.

13. Contact

Nick Jones at Her Majesty's Revenue and Customs Tel: 020 7147 0403 or email: pensions.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.