EXPLANATORY MEMORANDUM TO

THE TAXATION OF PENSION SCHEMES (CONSEQUENTIAL AMENDMENTS OF OCCUPATIONAL AND PERSONAL PENSION SCHEMES LEGISLATION) ORDER 2006

2006 No. 744

THE TAXATION OF PENSION SCHEMES (CONSEQUENTIAL AMENDMENTS) ORDER 2006

2006 No. 745

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (DEFINITION OF UNIT TRUST SCHEME AND OPEN-ENDED INVESTMENT COMPANY)(AMENDMENT) REGULATIONS 2006

2006 No. 746

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.

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

2. Description

2.1 This memorandum follows the Explanatory Memoranda for -

- Statutory Instruments 2005/3448 to 3458 (laid before the House of Commons on 15 December 2005),
- Statutory Instruments 2006/129 to 138 (laid before that House on 26th January 2006),
- Statutory Instruments 2006/206 to 212 (laid before that House on 2nd February),
- Statutory Instruments 2006/364 and 365 (laid before that House on 17th February) and
- Statutory Instruments 2006/567 to 576 and Statutory Instrument 2006/614 (laid before that House on 10th March).

2.2 These three instruments relate to, and supplement, Part 4 of the Finance Act 2004 as amended.

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

3.1. The Select Committee is respectfully referred to the Explanatory Memorandum for Statutory Instruments 2005/3448 to 3458 laid before the House of Commons on 15th December 2005.

3.2. An explanation of each instrument follows.

4. Legislative Background

4.1. The power to make these orders are contained in paragraph 6A(4) of Schedule 19 to the Finance Act 1999 and section 281(2) of the Finance Act 2004.

4.2. Instruments under these provisions may make amendments as may appear appropriate in consequence of, or otherwise in connection with the application of Part 4 of the Finance Act 2004 as amended by Schedule 10 to the Finance Act 2005, to any enactment contained in an Act passed before 6th April 2006 or in the Session in which that date falls and any instrument made before that date or in the Session in which that date falls.

5. Extent

5.1. These instruments apply throughout the United Kingdom.

6. European Convention on Human Rights

6.1. The Economic Secretary to the Treasury, [Ivan Lewis MP] has made the following statement regarding Human Rights:
In my view the provisions of the Taxation of Pension Schemes (Consequential Amendments) Order 2006 are compatible with the Convention rights.

6.2. The remaining instruments are subject to annulment and do not amend primary legislation. Accordingly, no statement of compatibility with the European Convention on Human Rights is required.

7. Policy Background

7.1. The Government wants to encourage today's workers, tomorrow's pensioners, to save for their retirement and offers generous tax incentives to encourage people to save in a pension. Following extensive consultation, pensions tax simplification was legislated for in Part 4 of the Finance Act 2004. As a result of ongoing consultation a package of supplementary measures were introduced in Finance Act 2005. The objectives are to increase individual choice and flexibility and cut industry costs by tackling the complexity and fragmentation caused by the current rules.

7.2. From 6th April 2006, a new unified pensions tax regime will replace the numerous existing regimes. The new regime will contain two key controls on tax relief for pension savings, a lifetime allowance and an annual allowance, which will replace the plethora of controls currently in existence.

7.3. An explanation of each instrument follows:

The Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006 (S.I. 2006/744)

This instrument makes consequential amendments to other subordinate legislation for occupational and personal pension schemes to secure consistency with the Provisions of Part 4 FA 2004.

The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745)

This instrument makes consequential amendments to other primary and secondary legislation to secure consistency with the Provisions of Part 4 of the Finance Act 2004.

The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company)(Amendment) Regulations 2006(S.I. 2006/746)

This instrument amends other subordinate legislation to confer an exemption from Stamp Duty Reserve Tax on surrenders of shares within Individual Pension Accounts to secure consistency with the provisions of Part 4 FA 2004.

8. Impact

The impact of these regulations is contained within the Simplifying the taxation of pensions Regulatory Impact Assessment and Appendix which can be found at www.hmrc.gov.uk/ria/simplifying-pensions.pdf and www.hmrc.gov.uk/ria/simplifying-pensions-appendix.pdf .

9. Contact

Kevin Golightly at HM Revenue & Customs (tel: 020 7147 2825 or e-mail: Kevin.Golightly@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.