

2006 No

INCOME TAX

**The Registered Pensions (Splitting of Schemes) Regulations
2006**

<i>Made</i> - - - -	<i>January 2006</i>
<i>Laid before the House of Commons</i>	<i>January 2006</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 274A of the Finance Act 2004(a), and now exercisable by them(b) make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Registered Pensions (Splitting of Schemes) Regulations 2006 and shall come into force on 6th April 2006.

(2) In these Regulations—

“group of employers” means two or more employers who are formally or informally linked to each other by reasons of common management, shareholding, staff or close business interests;

“HMRC” means the Commissioners for Her Majesty's Revenue and Customs;

“split scheme” means a registered pension scheme that is being treated, in accordance with regulation 2, as having been split into two or more sub schemes;

“sub scheme” means a scheme which forms part of a split scheme and which is being treated as a separate pension scheme under and for the purposes set out in these regulations;

“split scheme administrator” means a scheme administrator of a split scheme;

“sub-scheme administrator” means the scheme administrator of a sub-scheme appointed in accordance with the rules of the split scheme to be responsible for the discharge of the functions conferred or imposed on the sub-scheme administrator by or under these Regulations;

“section”, without more, means a section of the Finance Act 2004;

“schedule” without more, means a schedule to the Finance Act 2004.

(a) 2004 c.12. Section 274A was inserted by paragraph 50 of Schedule 10 to the Finance Act 2005 (c.7).

(b) The functions of the Commissioners of Inland Revenue 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 to the Commissioners of Inland Revenue (however expressed) shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

Description of schemes to be split

2.—(1) The following registered pension schemes shall be treated as split schemes for the purposes of these Regulations—

- (a) the registered pension schemes listed in Schedule 1;
- (b) a registered pension scheme which meets the conditions in paragraph (5);
- (c) a successor scheme to any of the above schemes.

(2) A successor scheme is a registered pension scheme established to take over some or all of the rights and obligations of a split scheme.

(3) The scheme administrator of a successor scheme shall notify HMRC of any sub-schemes in respect of which he is assuming responsibility immediately following registration of the successor scheme.

The notification shall—

- (a) be in a form specified by HMRC, and;
- (b) contain any information reasonably required by HMRC.

(4) Schedule 2 lists the schemes which, at the coming into force of these Regulations, are to be treated as sub schemes of the split schemes referred to in sub-paragraph (1).

(5) The conditions referred to in sub-paragraph (1)(b) are as follows.

Condition A

The pension scheme falls within Paragraph 1(1)(a) or (c) of Schedule 36 to the Finance Act 2004.

Condition B

The pension scheme provides benefits to or for the benefit of the employees of two or more employers.

Condition C

The rules of the pension scheme as at provided for the establishment of separate schemes for each of the participating employers or group of employers and for the administration of such schemes to be carried out by separate scheme administrators.

(6) A successor sub-scheme is a scheme established to take over some or all of the rights and obligations of a sub scheme.

(7) The scheme administrator of a successor sub-scheme shall notify HMRC immediately following his assumption of liability of the sub successor scheme.

The notification shall—

- (a) be in a form specified by HMRC, and
- (b) contain any information reasonably required, including the name and address of the scheme administrator.

Responsibilities and liabilities of sub-scheme administrators

3.—(1) The scheme administrator of a sub-scheme shall assume the liabilities and responsibilities set out in Schedule 3 to these Regulations in relation to that scheme.

(2) In the provisions referred to in that Schedule any reference to the scheme administrator shall be read as a reference to the sub-scheme administrator.

(3) The split scheme administrator shall cease to have responsibility or liability in relation to the matters referred to in paragraph (1) in respect of the sub scheme.

(4) The provisions of section 270(2) and (3) (meaning of “scheme administrator”) apply to the sub-scheme administrator (and any references to the scheme administrator shall be read as a reference to the sub-scheme administrator).

(5) Section 272 (trustees etc. liable as scheme administrator) applies to sub scheme administrators with the following modifications—

- (a) in subsection (1) for “registered pension scheme”; substitute “sub-scheme”;
- (b) in subsections (1)(a) to (c), (2)(a) and (b) for “scheme administrator” (in each place) substitute “sub-scheme administrator”;
- (c) in subsections (1)(a) to (c) and (2), (3) and (5) for “pension scheme” (in each place) substitute “sub-scheme”;
- (d) in subsection (2)—
 - (i) in paragraph (a) after “by virtue of this Part” insert “as applied by regulation 3 of the Registered Pensions (Splitting of Schemes) Regulations 2006”; and
 - (ii) in paragraph (b) after “by or under this Part.” insert “as applied by the Registered Pensions (Splitting of Schemes) Regulations 2006”; and
- (e) in subsection (4) for “pension scheme” substitute “sub-scheme”.

(6) Section 273 (members liable as scheme administrator) applies to members of a sub-scheme with the following modifications—

- (a) in subsection (1) for “registered pension scheme” substitute “sub-scheme”;
- (b) in subsections (1)(a) and (b) for “pension scheme” substitute “sub-scheme”;
- (c) in subsection (1)(a) after “(trustees, etc.)” add “(as modified by regulation 3 of the Registered Pensions (Splitting of Schemes) Regulations 2006)”;
- (d) in subsection (1)(b) omit the words “or section 242 (de-registration charge)”;
- (e) in subsections (2) and (4) for “pension scheme” substitute “sub-scheme”;
- (f) in subsection (5)(a) for “the pension scheme” substitute “the split scheme”;
- (g) in subsections (5)(b) and (d) for “the pension scheme” substitute “the sub-scheme”;
- (h) in subsection (5)(c) after the words “that the pension scheme was” add “part of”;
- (i) in subsection (10) for “the pension scheme” substitute “the sub-scheme”.

(7) Section 274(2) (supplementary) applies to sub scheme administrators with the following modifications—

- (a) for “scheme administrator” substitute “sub-scheme administrator”; and
- (b) for “registered pension scheme” substitute “sub-scheme”.

4. — Section 209(5) (unauthorised payments surcharge) shall be modified as follows.

- (a) in paragraph (b) delete “and”;
- (b) in paragraph (c) after “the scheme administrator” add “and”;
- (c) after paragraph (c) add—
 - “(d) the sub-scheme administrator,”.

5.—(1) Paragraph 11 of Schedule 31 (insertion of chapter 15A ITEPA 2003) shall be modified as follows.

(2) After subsection (4) of the inserted section 636A insert—

“(4A) In the case of a registered pension scheme which is a split scheme for the purposes of the Registered Pensions Schemes (Splitting of Schemes) Regulations 2006, subsections (3) and (4) shall have effect as if the references to the scheme administrator were to the sub-scheme administrator (within the meaning of those Regulations)..”

(3) Paragraph 1 of Schedule 35 (consequential amendments to the Taxes Management Act 1970) shall be modified as follows.

- (a) in the substitution to section 9(1A) of the Taxes Management Act 1970, in sub-paragraph (a) delete “or”; and
- (b) after sub-paragraph (a) add—

“(ab) is chargeable on the sub-scheme administrator of a sub-scheme under Part 4 of the Finance Act 2004 as modified by the Registered Pensions (Splitting of Schemes) Regulations 2006, or”

(4) Paragraph 16 of Schedule 35 (consequential amendments to section 349B(3) of ICTA) shall be modified as follows.

(5) After the substituted sub-paragraph (i) add—

“(ja)the sub-scheme administrator of a sub-scheme which forms part of a split scheme pursuant to the Registered Pensions (Splitting of Schemes) Regulations 2006;”

(6) Paragraph 33 of Schedule 35 (consequential amendments to section 824(9) of ICTA) shall be modified as follows.

(7) After the insertion of the words “scheme administrators of registered pension schemes, add “sub-scheme administrators of sub-schemes which form part of a split scheme pursuant to the Registered Pensions (Splitting of Schemes) Regulations 2006”.

Name

Name

Date

Commissioners for Her Majesty’s Revenue and Customs

SCHEDULE 1

Regulation 2

Schemes to be treated as split schemes pursuant to regulation 2(1)

<i>Name of Scheme</i>	<i>Enabling legislation</i>	<i>Governing regulations</i>

SCHEDULE 2

Regulation 3

<i>Name of sub-scheme</i>	<i>Split scheme to which it relates</i>

SCHEDULE 3

Regulation 3

Responsibilities and liabilities of sub scheme administrator in respect of a sub scheme

PART 1

Finance Act 2004

<i>Statutory Reference</i>	<i>Subject-matter</i>
Liabilities	
Section 205	Short service refund lump sum charge
Section 206	Special lump sum death benefit s charge
Section 207	Authorised surplus payments charge
Section 215(9)	Lifetime allowance charge – amount of charge
Section 217	Lifetime allowance charge (joint & several with the individual)
Section 227(3)	Annual allowance charge
Section 238(3) and (4)	Pension input period
Section 239	Scheme sanction charge
Information	
Section 250(1)	To make and deliver a registered pension scheme return
Section 254	Accounting for tax by scheme administrators
Interest and penalties	
Section 257	Penalty for failure to comply with a S250 notice.
Section 258(1)	Penalty for failure to provide information within S251(1)(a)
Section 258(2)	Penalty for failure to comply with regulations within S251(1)(b)
Section 259(1)	Penalty for failure to comply with a notice under S252

Section 260(1), (4) and (6)	Penalties for failure to make a return within S254
Section 265(3)	Penalty for winding up a scheme to obtain a winding up lump sum
Section 266(2)	Penalty for transfers to "non" insured schemes (unauthorised transfer)
Section 266B	Scheme liability (inserted by Paragraph 4 Schedule 10 FA 05)
Section 267	Discharge of lifetime allowance charge in the case of good faith.
Section 268	Unauthorised payment surcharge & scheme sanction charge
Scheme administrator	
Section 271	Liability of a scheme administrator
Section 272	Trustees etc. liable as scheme administrator
Section 273	Members liable as scheme administrator
Section 274	Supplementary provisions
Paragraph 1 of Schedule 28	Scheme administrator to receive evidence of member's ill health.
Paragraph 15(2)(b) of Schedule 28	Scheme administrator to agree if a child is a dependant
Paragraph 15(3) of Schedule 28	Scheme administrator to decide whether someone is a dependant.
Paragraph 4(1) of Schedule 29	Scheme administrator to consider evidence of serious ill health
Paragraph 19(1)(d) of Schedule 29	Scheme administrator to nominate arrangement for transfer lump sum benefit.
Paragraph 19(2) (e) of Schedule 29	Scheme administrator to nominate arrangement for transfer lump sum benefit.
Paragraph 9(2) of Schedule 32	Changes to Benefit crystallisation event 2
Paragraph 9(3) of Schedule 32	Changes to Benefit crystallisation event 2 (inserted by paragraph 43(4) of Schedule 10 to the Finance Act 2005).
Paragraph 13(4) and (5) of Schedule 32	Changes to Benefit crystallisation event 3 (inserted by paragraph 43(5) of Schedule 10 to the Finance Act 2005)
Paragraph 14(1A) & (1B) of Schedule 32	Changes to benefit crystallisation event 5 (inserted by paragraph 43(7) of Schedule 10 to the Finance Act 2005)
Paragraph 5 of Schedule 34	Exemption for scheme administrator from s.205 & s.206 charges
Paragraph 17 of Schedule 34	Omits reference to scheme administrator in s. 217
Paragraph 4(1), (2) and (3) of Schedule 36	Transitional provisions for deemed registered schemes
Paragraph 6 of Schedule 36	Pre-commencement liability of scheme administrator

Part 2

Secondary Legislation

The Pension Schemes (Discharge of Liabilities under Section 267 and 268 of the Finance Act 2004) Regulations

The Registered Pension Schemes (Relief at Source) Regulations

The Registered Pension Schemes (Minimum Contributions) Regulations

The Registered Pension Schemes (Accounting and Assessment) Regulations

The Registered Pension Schemes and Employer Financed Retirement Benefit Schemes (Information) (Prescribed Description of Person) Regulations

The Registered Pension Schemes (Provision of Information) Regulations

The Pension Schemes (Modification of Rules of Existing Schemes) Regulations

The Pension Benefits (Insurance Company Liable as Scheme Administrator) Regulations

The Pension Schemes (Meaning of Pension Commencement Lump Sum) Regulations

The Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Return and Information) Regulations

The Taxes Management Act 1970 (Modification of Schedule 3 for Pension Schemes Appeals) Order

The Pensions (Transfer of Sums and Assets) Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for certain registered pension schemes to be treated as if they were a number of separate registered pension schemes pursuant to section 274A of the Finance Act 2004 (c.12) (“the 2004 Act”).

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 prescribes the pension schemes that shall be treated as separate pension schemes. Paragraph (1) provides that the schemes listed in Schedule 1 together with any successor schemes shall be treated as schemes that have been split into a number of separate schemes (“split schemes”). Paragraph (2) contains a definition of “successor schemes”. Paragraph (3) provides that the scheme administrator of a successor scheme shall notify HMRC of any successor schemes that he is assuming responsibility for. Paragraph (4) provides that Schedule 2 shall list schemes which are being treated as separate schemes for the purpose of the regulations (“sub schemes”). Paragraph (5) and (6) provide that, in addition to the schemes listed in Schedule 1, schemes which meet the conditions set out shall be treated as split schemes. Paragraph (7) defines a sub successor scheme and Paragraph (8) provides that the scheme administrator of a sub successor scheme shall notify HMRC when he assumes responsibility for such a scheme.

Regulation 3 provides that scheme administrators of sub schemes shall assume the liabilities and responsibilities set out in schedule 3 and that the scheme administrator of the split scheme shall cease to have responsibility for those matters. Paragraphs (3) to (6) provide that sections 270,272, 273 and 274 of the 2004 Act shall apply to sub scheme administrators with the amendments set out.

Regulation 4 contains amendments to section 209 (unauthorised payments surcharge) of the 2004 Act so that the charge can apply to sub scheme administrators.

These Regulations impose no new costs on business.