# EXPLANATORY MEMORANDUM TO

# THE REGISTERED PENSIONS SCHEMES (AUDITED ACCOUNTS) (SPECIFIED PERSONS) (AMENDMENT) REGULATIONS 2015

## 2015 No. [XXXX]

**1.** This Explanatory Memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends the Registered Pension Schemes (Audited Accounts) (Specified Persons) Regulations 2005 (S.I. 2005/3456) ("the 2005 Regulations") to amend who can audit the accounts of registered pension schemes.

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

3.1 The instrument has retrospective effect to the beginning of the tax year 2014/15. The power to make regulations with retrospective effect, provided that the retrospective provision does not increase any person's liability to tax, is contained in section 282(A1) of the Finance Act 2004 ("FA04"). These regulations do not increase the tax liability of any person.

**4. Legislative Context**

4.1 Tax relief is provided on pension savings in order that those savings can be used to provide benefits later in life for the member and their beneficiaries. Part 4 of FA04 sets out the regime for the registration of pension schemes and the system of tax reliefs that apply to them. Chapter 7 of Part 4 enables HMRC to monitor compliance with the pensions tax regime and ensures that individuals and scheme administrators have the right information to pay any tax that may be due. The 2005 Regulations are made under powers contained in Chapter 7 and set out who may audit the accounts of registered pension schemes. There are similar restrictions in the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715) ("the DWP Regulations") which are made under powers contained within the Pensions Act 1995.

4.2 The requirements around who can audit accounts in the DWP regulations were amended from April 2014 by regulation 2 of the Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/540). The changes to the 2005 regulations are intended to mirror those in the DWP regulations.

**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 The Government provides tax relief on pensions savings to encourage individuals to save for their retirement, on the basis that the pension savings are used to provide an benefits in retirement for the member and/or death benefits for their beneficiaries. Tax relieved savings are made under registered pension schemes.

7.2 To ensure that tax-relieved funds are used for the purposes intended by Parliament, HMRC can ask for audited accounts of registered pension schemes to be provided. Prior to the changes in this instrument and the DWP regulations, a sponsoring employer of a scheme was prevented from being an auditor.

7.3 This requirement however was difficult to be met for vey-large multi-employer schemes as they found it difficult to find someone to act as a statutory auditor who met the independence requirements. The changes in the DWP regulations and this instrument provide an exemption for very large trust-based multi-employer schemes with 500 or more employers.

- Consolidation

7.4 There are currently no plans to consolidate the 2005 Regulations.

**8. Consultation outcome**

8.1

**9. Guidance**

9.1 Existing guidance will be updated at the earliest opportunity to include the requirements introduced by this instrument.

**10. Impact**

10.1 The impact on business, charities or voluntary bodies is not expected to be significant.

10.2 The impact on the public sector is not expected to be significant.

10.3 A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

## 11. Regulating small business

11.1 This instrument applies to small firms. It is expected to impact on small and large firms in the same way and the impacts are not expected to be significant.

## 12. Monitoring and review

12.1 The policy will be monitored through information collected from HMRC databases, tax returns, receipts and other statistics.

## 13. Contact

Paul Cottis at HMRC Telephone: 03000 564209 or Email: pensions.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.