

Explanatory Note: draft clause

Pension Schemes

Summary

1. This clause and Schedule amends the Finance Act 2004 (FA 2004), as it relates to the registration of pension schemes for UK tax reliefs.

Details of the Schedule

Schedule 1: Pension Schemes

2. Paragraph 1 introduces amendments to Part 4 FA 2004.
3. Subparagraph 1(2) inserts new subsection (5A) into section 150 of FA 2004. Subsection (5A) provides a signpost to new section 274B of FA 2004 (see below).
4. Subparagraphs 1(3) and (4) insert new subparagraphs (h) and (i) into section 153(5) of FA 2004 and new subparagraphs (g) and (h) into section 158(1) of FA 2004 respectively. New sections 153(5)(h) and 158(1)(g) extend the circumstances in which H M Revenue & Customs (HMRC) can decide to refuse to register or de-register a pension scheme to those in which the sponsoring employer of an occupational pension scheme has been dormant for a continuous period of one month, within a year ending with the day on which the decision is made. New sections 153(5)(i) and 158(1)(h) allows HMRC to refuse to register, or to de-register a Master Trust scheme which is not authorised by the Pensions Regulator (an “unauthorised Master Trust”).
5. Subparagraph 1(5) inserts new section 274B (National Employment Savings Trust and Master Trust schemes) into Chapter 8 of Part 4 of FA 2004. Section 274B(1) provides for pension schemes established under section 67 of the Pensions Act 2008, which are not occupational pension schemes to be treated as such for the purposes of Part 4 FA 2004. Section 274B(2) provides for Master Trust schemes, that are not occupational pension schemes to be treated as such for the purposes of Part 4 FA 2004.
6. Subparagraph 1(6) inserts new subsections (1B) and (1C) into section 279 of FA 2004. Subsection (1B)(a) defines a Master Trust scheme. Subsection (1B)(b) defines when a Master Trust scheme is authorised. Subsection (1B)(c) defines when a Master Trust scheme is unauthorised. Subsection (1C) defines a dormant company for the purposes of Part 4 of FA 2004.
7. Subparagraph 1(7) inserts references to those definitions into the general index of definitions contained in section 280(2) FA 2004.

8. Subparagraph 1(8) inserts new subparagraph (4A) into paragraph 1 of Schedule 36 to FA 2004. New subparagraph (4A) provides that pension schemes that became registered pension schemes as a result of paragraph 1 of Schedule 36 to FA 2004, but are not occupational pension schemes, or public service pension schemes, are to be treated as occupational pension schemes for the purposes of Part 4 of FA 2004.
9. Subparagraph 1(9) removes subsection (1) of section 30 of Finance (No.3) Act 2010 as this has been contained in section 280(2) FA 2004.
10. Paragraph 2 provides for commencement of provisions in paragraph 1.
11. Subparagraphs 2(1) and (2) provide for commencement. The effect of those provisions is that the amendments made in relation to dormant companies will come into force on 6 April 2018. The amendments made in relation to Master Trusts will come into force on the day on which section 3 of the Pension Schemes Act 2017 (prohibition on operating Master Trust Schemes unless authorised) comes into force, or if later, the day on which the Finance Bill receives Royal Assent.
12. Subparagraph 2(3) provides for those parts of paragraph 1 not already brought into force by subparagraphs (1) or (2), to come into force when this Act is passed, but subject to the provisions of subparagraph (4).
13. Subparagraph 2(4) provides for subparagraph (8) to be treated as always having had effect.
14. Subparagraph 2(5) applies the changes made by subparagraph 1(3) to any decision on an application to register a pension scheme under section 153(4) of FA 2004 regardless of when that application was made.
15. Subparagraph 3(1) provides for subparagraph (2) to apply to pension schemes that are Master Trust schemes but are not occupational pension schemes which have been registered under Chapter 2 of Part 4 of FA 2004 before the passing of this Act.
16. Subparagraph 3(2) provides for new section 274B(2) of FA 2004 to be treated as always having had effect in relation to the pension scheme.
17. Subparagraph 3(3) provides for “Master Trust scheme” and “occupational pension scheme” to have the same meaning in this paragraph as in Part 4 of FA2004.

Background note

18. The change will allow HMRC to align pension scheme tax registration with the Pensions Regulator’s authorisation and supervision regime for Master Trust schemes, and allow HMRC to prevent pension schemes from registering for tax purposes if a sponsoring employer is a dormant company.
19. This change supports the Government’s objectives of fairness in the tax system by making changes to the tax registration for pension schemes to make it more effective at preventing fraud.
20. If you have any questions about this change, or comments on the legislation, please contact Samantha Skill on 03000 512336 (email: pensions.policy@hmrc.gsi.gov.uk).