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STATUTORY INSTRUMENTS

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**2007 No. 829**

**INCOME TAX**

**The Taxation of Pension Schemes (Protected Rights and Pension Commencement Lump Sums) (Amendment) Order 2007**

<i>Made</i>	- - - -	<i>13th March 2007</i>
<i>Laid before the House of Commons</i>	- - - -	<i>14th March 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Treasury make the following Order in exercise of the powers conferred upon them by section 281(2)(b) and (2A) of the Finance Act 2004<sup>(1)</sup>.

**Citation and commencement**

1. This Order may be cited as the Taxation of Pension Schemes (Protected Rights and Pension Commencement Lump Sums) (Amendment) Order 2007 and shall come into force on 6th April 2007.

**Consequential amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996**

2. In the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996<sup>(2)</sup>—

(a) in regulation 1(2) (interpretation), in the appropriate alphabetical places, insert—

““income withdrawal” has the meaning given by paragraph 7 of Schedule 28 to the Finance Act 2004 (income withdrawal);

“lifetime annuity” has the meaning given by paragraph 3 of Schedule 28 to the Finance Act 2004<sup>(3)</sup> (lifetime annuity);

“scheme pension” has the meaning given by paragraph 2 of Schedule 28 to the Finance Act 2004<sup>(4)</sup> (scheme pension); and

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(1) [2004 c.12](#). Subsection (2A) was inserted by paragraph 34(1) and (2) of Schedule 23 to, the Finance Act [2006 \(c.25\)](#).

(2) [S.I. 1996/775](#).

(3) Paragraph 3 was amended by paragraphs 1 and 13 of Schedule 10 and Part 4 of Schedule 11 to the Finance Act [2005 \(c.7\)](#).

(4) Paragraph 2 was amended by paragraphs 1 and 11 of Schedule 10, and Part 4 of Schedule 11 to the Finance Act 2005 and paragraphs 1 and 20 of Schedule 23 to the Finance Act [2006 \(c.25\)](#).

- “the scheme pension purchase price” has the meaning given by paragraph 3(7B) of Schedule 29 to the Finance Act 2004<sup>(5)</sup> (the scheme pension purchase price);” and
- (b) for regulation 5(5)<sup>(6)</sup> (conditions upon which appropriate policies of insurance may be commuted), substitute—
- “(5) The limit referred to in paragraph (4) must not exceed—
- (a) in respect of a scheme pension, the lesser of—
- (i) one third of the value of the protected rights included in the scheme pension purchase price; or
- (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the scheme pension purchase price and the pension commencement lump sum; or
- (b) in respect of a lifetime annuity or income withdrawal, the lesser of—
- (i) 25 per cent. of the member’s protected rights which are crystallised by the member’s benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 (“the member’s benefit crystallisation events”); or
- (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member’s benefit crystallisation events.”.

### **Consequential amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996**

**3.** In the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996<sup>(7)</sup>—

- (a) in regulation 1(2) (interpretation), after the definition of “administrative charges” insert—
- ““income withdrawal” has the meaning given by paragraph 7 of Schedule 28 to the Finance Act 2004;
- “lifetime annuity” has the meaning given by paragraph 3 of Schedule 28 to the Finance Act 2004;
- “scheme pension” has the meaning given by paragraph 2 of Schedule 28 to the Finance Act 2004;
- “the scheme pension purchase price” has the meaning given by paragraph 3(7B) of Schedule 29 to the Finance Act 2004;” and
- (b) for regulation 5(5)<sup>(8)</sup> (conditions upon which appropriate policies of insurance may be commuted) substitute—
- “(5) The limit referred to in paragraph (4) must not exceed—
- (a) in respect of a scheme pension, the lesser of—
- (i) one third of the value of the protected rights included in the scheme pension purchase price, or

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<sup>(5)</sup> Paragraph 3(7B) was inserted by paragraph 22(3) of Schedule 23 to the Finance Act 2006.

<sup>(6)</sup> Regulation 5 was substituted by [S.I. 2006/744](#).

<sup>(7)</sup> [S.R. \(NI\) 1996 No. 94](#); the relevant amending instrument is [S.I. 2006/744](#).

<sup>(8)</sup> Regulation 5 was substituted by [S.I. 2006/744](#).

- (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the scheme pension purchase price and the pension commencement lump sum, or
- (b) in respect of a lifetime annuity or income withdrawal, the lesser of—
  - (i) 25 per cent. of the member’s protected rights which are crystallised by the member’s benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 (“the member’s benefit crystallisation events”), or
  - (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member’s benefit crystallisation events.”.

#### **Consequential amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

**4. In the Personal and Occupational Pensions Schemes (Protected Rights) Regulations 1996(9)—**

- (a) in regulation 1(2) (interpretation), in the appropriate alphabetical places, insert—
  - ““income withdrawal” has the meaning given by paragraph 7 of Schedule 28 to the Finance Act 2004;
  - “lifetime annuity” has the meaning given by paragraph 3 of Schedule 28 to the Finance Act 2004;
  - “scheme pension” has the meaning given by paragraph 2 of Schedule 28 to the Finance Act 2004; and
  - “the scheme pension purchase price” has the meaning given by paragraph 3(7B) of Schedule 29 to the Finance Act 2004;”;
- (b) for regulation 8(1D)(10) (giving effect to protected rights by the provision of a lump sum), substitute—
  - “(1D) The limit referred to in paragraph (1C) must not exceed—
    - (a) in respect of a scheme pension, the lesser of—
      - (i) one third of the value of the protected rights included in the scheme pension purchase price; or
      - (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the scheme pension purchase price and the pension commencement lump sum; or
    - (b) in respect of a lifetime annuity or income withdrawal, the lesser of—
      - (i) 25 per cent. of the member’s protected rights which are crystallised by the member’s benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 (“the member’s benefit crystallisation events”); or
      - (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage

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(9) 1996/1537, relevant amending instruments are S.I. 1997/786, 1999/3198, 2005/704 and 2050 and 2006/744.

(10) Regulation 8(1) and (1A) to (1F) was substituted for the original regulation 8(1) by S.I. 2006/744.

that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events.”.

**Consequential amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997**

**5.** In the Personal and Occupational Pensions Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**11**)—

- (a) in regulation 1(2) (interpretation) in the appropriate alphabetical places, insert—
- ““income withdrawal” has the meaning given by paragraph 7 of Schedule 28 to the Finance Act 2004;
  - “lifetime annuity” has the meaning given by paragraph 3 of Schedule 28 to the Finance Act 2004;
  - “scheme pension” has the meaning given by paragraph 2 of Schedule 28 to the Finance Act 2004;
  - “the scheme pension purchase price” has the meaning given by paragraph 3(7B) of Schedule 29 to the Finance Act 2004;”;
- (b) for regulation 8(1D)(**12**) (giving effect to protected rights by the provision of a lump sum), substitute—
- “(1D) The limit referred to in paragraph (1C) must not exceed—
- (a) in respect of a scheme pension, the lesser of—
    - (i) one third of the value of the protected rights included in the scheme pension purchase price, or
    - (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the scheme pension purchase price and the pension commencement lump sum, or
  - (b) in respect of a lifetime annuity or income withdrawal, the lesser of—
    - (i) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 (“the member's benefit crystallisation events”), or
    - (ii) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events.”.

*Frank Roy*

*Alan Campbell*

Two of the Lords Commissioner of Her Majesty's Treasury

13th March 2007

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(11) S.R. (NI) 1997 No. 56; the relevant amending instrument is S.I. 2006/744.

(12) Regulation 8(1) and (1A) to (1F) was substituted for the original regulation 8(1) by S.I. 2006/744.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775) and the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 94) (“the Winding up Regulations”) and the Personal and Occupational Pensions Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537) and the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 56) (“the Protected Rights Regulations”) consequential upon amendments made to the Finance Act 2004 (c.12) (“the 2004 Act”) by the Finance Act 2006 (c.25).

This Order amends the provisions of the Winding up Regulations and the Protected Rights Regulations regarding pension commencement lump sums that are paid out of protected rights used to purchase a scheme pension so that they mirror those contained in the 2004 Act.

A Regulatory Impact Assessment has not been prepared for this instrument as it has only a negligible impact on the costs of business, charities or voluntary bodies.