
STATUTORY INSTRUMENTS

2005 No. 706

**The Occupational Pension Schemes
(Winding up etc.) Regulations 2005**

Winding up

Requirements to be met where liabilities discharged on winding up

11. In regulation 8 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (requirements to be satisfied by transferee schemes, annuities etc.) after paragraph (5) add—

“(6) For the purposes of section 74(3)(e) ^{M1} (liabilities treated as discharged where the trustees have provided for them to be discharged by the payment of a cash sum in circumstances where prescribed requirements are met), the circumstances which are prescribed are—

- (a) where the payment is a contribution refund under Chapter 5 of Part 4 of the 1993 Act; or
- (b) where the payment—
 - (i) is made to a member who has a right under the scheme rules to the payment of a lump sum that is a trivial commutation lump sum or a winding up lump sum for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (see paragraphs 7 to 10 of that Schedule (registered pension schemes: authorised lump sums: trivial commutation lump sum and winding up lump sum)); and
 - (ii) does not contravene any trivial commutation restriction that applies in the circumstances in question.

(7) In this regulation “trivial commutation restriction” means a restriction imposed by—

- (a) regulation 19, 20 or 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 ^{M2} (lump sum benefits and salary related contracted-out schemes, trivial commutation of benefits derived from section 9(2B) rights and trivial commutation of guaranteed minimum pensions);
- (b) regulation 2 of the Occupational Pension Scheme (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 ^{M3} (commutation of a pension under an occupational pension scheme); or
- (c) regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 ^{M4} (commutation of the whole of pension credit benefit).

(8) Before 6th April 2006 this regulation applies with the modification in paragraph (9).

(9) For paragraph (6)(b)(i) substitute—

“(i) extinguishes the whole or part of the person's entitlement to benefits under the scheme;

(ia) does not contravene Revenue restrictions; and”.

(10) For the purposes of this regulation a payment does not contravene Revenue restrictions if—

- (a) in the case of a scheme that is an approved scheme for the purposes of Chapter 1 of Part 14 of the Income and Corporation Taxes Act 1988 (see section 612(1) of that Act), it is permitted under the scheme rules in accordance with its approval for those purposes; and
- (b) in the case of a scheme that is a relevant statutory scheme for those purposes (see section 611A of that Act), it is permitted under the regulations or rules governing the scheme as such a scheme.”.

Marginal Citations

- M1** Paragraph (e) is inserted by section 270(2)(c) of the Pensions Act 2004.
- M2** [S.I. 1996/1172](#); relevant amending instruments are [S.I. 1997/786](#), 2000/2975 and 2002/681.
- M3** [S.I. 1997/785](#); the relevant amending instrument is [S.I. 2002/681](#).
- M4** [S.I. 2000/1054](#).

Changes to legislation:

There are currently no known outstanding effects for the The Occupational Pension Schemes (Winding up etc.) Regulations 2005, Section 11.