
STATUTORY INSTRUMENTS

2006 No. 2004

INCOME TAX

The Taxation of Pension Schemes (Transitional Provisions) (Amendment No. 2) Order 2006

<i>Made</i>	- - - -	<i>24th July 2006</i>
<i>Laid before the House of Commons</i>	- - - -	<i>24th July 2006</i>
<i>Coming into force</i>	- -	<i>25th July 2006</i>

The Treasury make the following Order in exercise of the powers conferred upon them by section 283(2) of the Finance Act 2004⁽¹⁾.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Taxation of Pension Schemes (Transitional Provisions) (Amendment No. 2) Order 2006 and shall come into force on 25th July 2006.

(2) In this Order “the principal Order” means the Taxation of Pension Schemes (Transitional Provisions) Order 2006⁽²⁾.

Amendment of the principal Order: general

2. The principal Order is amended as follows.

Substitution of article 25 of the principal Order

3. For article 25 substitute—

“Stand-alone lump sums: introductory and definition

25.—(1) This article and articles 25A to 25D deal with stand-alone lump sums.

(2) In those articles—

this article is introductory and sets out the definition of a stand-alone lump sum;
article 25A deals with the conditions that must be met before a lump sum may be classified as a stand-alone lump sum;

(1) 2004 c. 12.
(2) S.I. 2006/572.

article 25B deals with the circumstances in which a stand-alone lump sum may be paid;

article 25C deals with the tax consequences; and

article 25D contains further provisions.

(3) In this article and in articles 25A to 25D a “stand-alone lump sum” means a lump sum which—

- (a) meets all the conditions A to D set out in article 25A, and
- (b) is paid in one of the circumstances A to C set out in article 25B.

Conditions to be met by stand-alone lump sums

25A.—(1) This article sets out the conditions referred to in article 25(3)(a).

(2) Condition A is that, on or after 6th April 2006, the lump sum is paid to an individual under a registered pension scheme of which the individual is a member.

(3) Condition B is that the lump sum is paid in circumstances where all of the member’s uncrystallised rights under the scheme come into payment on a single benefit crystallisation event.

(4) Condition C is that the lump sum is paid when the member has reached normal minimum pension age (or the ill-health condition is satisfied).

(5) Condition D is that the lump sum is paid before the member reaches the age of 75.

Circumstances in which stand-alone lump sums are paid

25B.—(1) This article sets out the circumstances referred to in article 25(3)(b).

(2) Circumstance A is where paragraph 28 of Schedule 36 (modification of paragraph 2 of Schedule 29 in the case of a member of a pension scheme to whom enhanced protection does not apply) applies in relation to the member.

(3) Circumstance B is where—

- (a) paragraph 29 of Schedule 36 (modification of applicable amount in the case of a member of a pension scheme to whom enhanced protection applies) applies in relation to the member, and
- (b) on 5th April 2006, and on the assumptions set out in paragraph (5), all of the member’s rights under all of the member’s pension schemes within paragraphs (a) to (g) of paragraph 1(1) of Schedule 36 could have been paid out to the member in the form of a lump sum.

(4) Circumstance C is where—

- (a) on 5th April 2006 the member was a member of a pension scheme within paragraphs (a) to (e) of paragraph 1(1) of Schedule 36 and relating to an employment (the “original pension scheme”),
- (b) on 5th April 2006, and on the assumptions set out in paragraph (5), all of the member’s rights under the original pension scheme, and all of the member’s rights under any other pension scheme within paragraphs (a) to (e) of paragraph 1(1) of Schedule 36 and relating to the same employment could have been paid out to the member in the form of a lump sum,
- (c) on and after 6th April 2006, relevant benefit accrual (as defined in paragraph 13 of Schedule 36) has not occurred under the original pension scheme in relation to the member,

- (d) on or after 6th April 2006 the member is paid a lump sum representing all of the member's rights (to which the member did not have an actual entitlement on or before 5th April 2006) under the original pension scheme,
- (e) the circumstances set out in paragraphs (2) and (3) (circumstances A and B) do not apply.
- (5) The assumptions are that—
 - (a) the member had retired on 5th April 2006;
 - (b) the valuation assumptions apply (modified, if appropriate, in accordance with paragraph 25(7) of Schedule 36); and
 - (c) the payment of the lump sum on 5th April 2006 (on the assumptions set out in paragraph 26(4) of Schedule 36) would not have given the Commissioners of Her Majesty's Revenue and Customs grounds for withdrawing the approval of the pension scheme.

Payment of stand-alone lump sums: tax consequences

25C.—(1) In subsection (1) of section 166 (lump sum rule), the list of lump sums set out in the paragraphs of that subsection shall be treated as including a stand-alone lump sum.

(2) In paragraph 15 of Schedule 32 (benefit crystallisation event 6: meaning of “relevant lump sum”) the list of lump sums set out in the sub-paragraphs of that paragraph shall be treated as including a stand-alone lump sum.

(3) In subsection (1) of section 636A of ITEPA 2003⁽³⁾ (exemption for certain lump sums under registered pension schemes), the list of lump sums set out in the paragraphs of that subsection shall be treated as including a stand-alone lump sum.

Stand-alone lump sums: further provisions

25D.—(1) Paragraphs (2) and (3) apply if—

- (a) a stand-alone lump sum is paid to a member of a pension scheme in circumstances where article 25B(2) (circumstance A) applies, or
- (b) a stand-alone lump sum is paid to a member of a pension scheme, and a pension commencement lump sum is subsequently paid to the member (whether from the same pension scheme or from any other pension scheme) in circumstances where paragraph 28 of Schedule 36 applies to the payment of the pension commencement lump sum.

(2) The stand-alone lump sum paid must not exceed the stand-alone lump sum maximum.

The “stand-alone lump sum maximum” means the amount given by the formula “VULSR – APCLS” in sub-paragraph (3) of paragraph 28 of Schedule 36, in the modified sub-paragraph (6) of paragraph 2 of Schedule 29 (as that formula is modified in accordance with paragraph (3)).

(3) In sub-paragraph (3) of paragraph 28 of Schedule 36, in the modified sub-paragraph (6) of paragraph 2 of Schedule 29, the term “APCLS” shall be treated as referring to the aggregate of the amounts of each pension commencement lump sum and each stand-alone lump sum to which the individual has previously become entitled, as adjusted under sub-paragraph (7) (or, if the individual has not previously become entitled to a pension commencement lump sum or a stand-alone lump sum, is nil).

(4) Paragraph (5) applies if—

⁽³⁾ Section 636A was inserted by paragraph 11 of Schedule 31 to the Finance Act 2004.

- (a) an individual was a member of a pension scheme (“the original pension scheme”),
 - (b) the original pension scheme was entitled to pay a stand-alone lump sum to the member which, if it had been paid, would have been a stand-alone lump sum paid in circumstances where article 25B(4) (circumstance C) applied,
 - (c) the rights of the member under the original pension scheme are transferred to a new pension scheme (the “transferee pension scheme”) as the result of a block transfer (within the meaning given by paragraph 22(6) of Schedule 36), and
 - (d) the member had no rights under the transferee pension scheme before the block transfer.
- (5) The transferee pension scheme is treated as the same pension scheme as the original pension scheme (so that, accordingly, the transferee pension scheme may pay a stand-alone lump sum to the member in circumstances where article 25B(4) (circumstance C) applies).
- (6) Paragraphs (7) to (9) apply if—
- (a) an individual is a member of a pension scheme (a “stand-alone lump sum pension scheme”) which is entitled to pay a stand-alone lump sum to the member in circumstances where article 25B(3) or (4) (circumstance B or C) applies;
 - (b) on or after 6th April 2006 sums and assets are transferred in relation to the member by another pension scheme under which the member has rights (a “transferor scheme”) to the stand-alone lump sum pension scheme; and
 - (c) the stand-alone lump sum pension scheme subsequently makes a lump sum payment to the member.
- (7) The lump sum payment made by the stand-alone lump sum pension scheme to the member is not a stand-alone lump sum unless the lump sum is also made in the circumstances set out in paragraph (8).
- (8) The circumstances are that—
- (a) neither a stand-alone lump sum nor a pension commencement lump sum has previously been paid under the pension scheme to the member, and
 - (b) the sums and assets transferred (or, if there is more than one transfer, all the sums and assets transferred), as specified in paragraph (6)(b), are stand-alone lump sum transfer sums.
- (9) In paragraph (8)(b) “stand-alone lump sum transfer sums” means sums and assets transferred by the transferor scheme to the stand-alone lump sum pension scheme in the circumstances specified in paragraph (6)(b) which would have been a stand-alone lump sum on the assumptions that—
- (a) the sums and assets had been transferred not to the stand-alone lump sum pension scheme but to the member, and
 - (b) the condition in article 25A(4) (condition C) is met.”

Omission of article 26 of the principal Order

4. Omit article 26 (application of paragraph 31 of Schedule 36).

24th July 2006

Dave Watts
Frank Roy
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I.2006/572) (“the principal Order”). The principal Order contains further transitional provisions relating to the new provisions for pension schemes coming into force on 6th April 2006 under Part 4 of the Finance Act 2004 (c. 12).

Article 1 of this Order provides for citation, commencement and interpretation, and article 2 provides for the principal Order to be amended.

Article 3 of this Order provides for the substitution of article 25 of the principal Order. That article, which dealt with stand-alone lump sums, is replaced by five new articles (article 25 and articles 25A to 25D), which also deal with the same subject. Of these new articles, article 25 contains introductory material and defines the expression “stand-alone lump sum”. This expression is defined as a lump sum which meets all the conditions set out in article 25A and is made in one of the circumstances set out in article 25B. Article 25A then sets out the relevant conditions and article 25B the relevant circumstances. Article 25C sets out the tax consequences if a stand-alone lump sum is paid, and article 25D contains further provisions.

Article 4 of this Order provides for the omission of article 26 of the principal Order (dealing with the application of paragraph 31 of Schedule 36 to the Finance Act 2004).

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004, as amended by the Finance Act 2005 and the Finance Act 2006 is available on the website of HM Revenue and Customs at www.hmrc.gov.uk/ria/simplifying-pensions.pdf and may be obtained by writing to the Ministerial Correspondence Unit, 1st Floor, HM Revenue and Customs, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.