

---

STATUTORY INSTRUMENTS

---

**2006 No. 744**

**The Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006**

**PART 2**

**Amendment of Subordinate Legislation applicable to Great Britain**

**Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996**

**8.—(1)** Amend the Occupational Pension Schemes (Contracting-out) Regulations 1996(1) as follows.

(2) In regulation 1(2) (interpretation)—

- (a) in the definition of “administrator”, for “resident” (in the second place where that word appears) to the end of that definition substitute “who is, or the persons who are, appointed in accordance with section 270 of the Finance Act 2004 (meaning of “scheme administrator”);”;
- (b) omit the definition of “the Taxes Act”; and
- (c) in the appropriate alphabetical place insert—

““relevant statutory scheme” has the same meaning as in paragraph 1(1)(c) of Schedule 36 to the Finance Act 2004 (deemed registration of existing schemes);”.

(3) In regulation 12 (special provision for holding companies and subsidiaries), omit paragraphs (1)(b)(ii), (2)(b)(ii) and (2)(c)(ii).

(4) In regulation 19 (lump sum benefits and salary-related contracted-out schemes) for the words “pension except—” to the end of that regulation, substitute—

“pension except in accordance with—

- (a) regulation 20 (payment of lump sum instead of a pension payable under a relevant scheme); or
- (b) regulation 60 (payment of a guaranteed minimum pension as a lump sum).”.

(5) For regulation 20 (trivial commutation of benefits derived from section 9(2B) rights) substitute—

**“Payment of a lump sum instead of a pension payable under a relevant scheme**

**20.—(1)** For the purposes of section 12C(1)(c) of the 1993 Act (regulations may prohibit or restrict the payment of a lump sum instead of a pension under a relevant scheme except in

---

(1) *S.I. 1996/1172* amended by section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), *S.I. 1997/786*, *1999/3198*, *2000/2975*, *2001/943*, *2002/681*, *2005/706*, *2050* and *3377*; there are other amending instruments but none is relevant.

prescribed circumstances or on prescribed conditions), a relevant scheme may not provide for the payment of a lump sum instead of a pension unless the payment to be made is authorised under section 164 of the Finance Act 2004 (authorised member payments) and the payment is permitted either—

- (a) by the lump sum rule in section 166 of that Act (lump sum rule) and qualifies as—
  - (i) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;
  - (ii) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;
  - (iii) a trivial commutation lump sum for the purposes of paragraph 7 of that Part;
  - (iv) a winding-up lump sum for the purposes of paragraph 10 of that Part; or
- (b) by the lump sum death benefit rule in section 168 of that Act (lump sum death benefit rule) and qualifies as—
  - (i) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or
  - (ii) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) Where under the scheme—

- (a) an earner qualifies for a lump sum payment on the ground of serious ill-health; and
- (b) the earner’s widow, widower or surviving civil partner qualifies for a pension (“a survivor’s pension”),

the scheme must continue to include provision for a survivor’s pension notwithstanding the payment of a lump sum to the earner.”.

(6) In regulation 21 (payable age in salary related contracted-out schemes) for “which” (in the second place where the word appears) to the end of that regulation substitute “which is permitted under section 164 of the Finance Act 2004 (authorised member payments).”.

(7) In regulation 29 (schemes which cannot be certified under section 9(2B) of the Pension Schemes Act 1993), for paragraph (a) substitute—

- “(a) a scheme which is not registered under section 153 of the Finance Act 2004, unless it is, or was formerly, a relevant statutory scheme.”.

(8) In regulation 40 (schemes which may not be contracted-out under section 9(3) of the Pension Schemes Act 1993) for “an exempt approved scheme” to the end of that regulation substitute “registered under section 153 of the Finance Act 2004.”.

(9) In regulation 48 (special provision for overseas schemes), in paragraph (3) for “for the” to the end of that paragraph substitute “who is appointed in accordance with section 270 of the Finance Act 2004 (meaning of “scheme administrator”).”.

(10) For regulation 60 (trivial commutation of guaranteed minimum pensions), substitute—

**“Payment of a guaranteed minimum pension as a lump sum**

**60.**—(1) For the purposes of section 21(1) of the 1993 Act (payment of a lump sum instead of a pension in prescribed circumstances and subject to prescribed restrictions and conditions) the circumstances are where—

- (a) a guaranteed minimum pension has become payable; and
- (b) the payment of a lump sum is authorised under section 164 of the Finance Act 2004 and the payment is permitted either—
  - (i) by the lump sum rule in section 166 of that Act and qualifies as—

- (aa) a trivial commutation lump sum for the purposes of paragraph 7 of that Part; or
- (bb) a winding-up lump sum for the purposes of paragraph 10 of that Part; or
- (ii) by the lump sum death benefit rule in section 168 of that Act and qualifies as—
  - (aa) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or
  - (bb) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) The condition in paragraph (1)(a) shall not apply in cases where the scheme is being wound up or an earner retires before pensionable age, and a premium under section 55(2) of the 1993 Act (contributions equivalent premium) has been paid or treated as paid under Part VI or the scheme has made the provisions mentioned in section 16(2) and (3) of the 1993 Act, provided that—

- (a) for the purposes of paragraph (1)(b), where the aggregate amount of the benefits which has accrued to the earner at the date of winding-up or, as the case may be, of his retirement, increased—
  - (i) in accordance with section 16(2) and (3) of the 1993 Act, or
  - (ii) in a case where that section 16(2) and (3) applies, to the amount that would have been payable at pensionable age,

that aggregate amount shall be treated as the amount of benefits currently payable to him under the scheme;

- (b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme's early retirement provisions;
- (c) in cases where the earner is a member of more than one scheme relating to the same employment, all those schemes are being wound up or, as the case may be, he is treated by all those schemes as having retired and, in each case, all those schemes have paid a contributions equivalent premium or have made the provisions mentioned in section 16(2) and (3) of the 1993 Act."