
STATUTORY INSTRUMENTS

2009 No. 1171

**The Registered Pension Schemes
(Authorised Payments) Regulations 2009**

PART 1

INTRODUCTION

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Authorised Payments) Regulations 2009 and shall come into force on 1st June 2009.

(2) These Regulations shall have effect—

- (a) for payments of a description within Part 2, in relation to payments made on or after 1st December 2009; and
- (b) for payments of a description within Part 3 or Part 4, in relation to payments made on or after 6th April 2006⁽¹⁾.

Interpretation

2.—(1) Any reference in these Regulations to a numbered section or a paragraph of a Schedule, without more, is a reference to the section or paragraph of the Finance Act 2004 bearing that number.

(2) Any reference in these Regulations to a person's being entitled to a payment—

- (a) if it is a payment of pension (or intended to be such a payment), shall be construed in accordance with section 165(3) (pension rules)⁽²⁾, and related expressions shall be construed accordingly;
- (b) if it is a payment of a lump sum (or intended to be such a payment), shall be construed in accordance with section 166(2) (lump sum rule)⁽³⁾, and related expressions shall be construed accordingly.

(3) For the purpose of these Regulations, whether a person is connected with another person is determined in accordance with section 993 of the ITA 2007 (meaning of “connected” persons)⁽⁴⁾.

(4) For the purpose of these Regulations,

- (a) a pension scheme is related to another pension scheme if each of them is—
 - (i) a registered pension scheme⁽⁵⁾ that is an occupational pension scheme⁽⁶⁾ or a public service pension scheme⁽⁷⁾, and

(1) Section 164(2)(d) provides that regulations made under subsection (1)(f) may include provision having effect in relation to times before they are made if it does not increase any person's liability to tax.

(2) There are amendments to section 165, but none is relevant.

(3) Section 166 was amended by paragraph 9 of Schedule 20 to the Finance Act 2007 (c. 11).

(4) Section 280(1) of the Finance Act 2004 defines “ITA 2007” as meaning the Income Tax Act 2007 (c. 3); that definition was inserted by paragraph 481 of Schedule 1 to ITA 2007.

(5) Section 150(2) of the Finance Act 2004 defines “registered pension scheme”.

(6) Section 150(5) of the Finance Act 2004 defines “occupational pension scheme”.

- (ii) a pension scheme relating to the same employment; but
 - (b) if the context is whether a person is or is not a controlling director of a sponsoring employer⁽⁸⁾ of a pension scheme, only registered pension schemes that are occupational pension schemes are related to other such pension schemes.
- (5) In these Regulations—
- “controlling director” has the meaning given by section 273(9) (members liable as scheme administrator);
 - “excluded transfer” means—
- (a) a recognised transfer⁽⁹⁾; or
 - (b) any other transfer to the pension scheme of any sums or assets held for the purposes of, or representing accrued rights under, another pension scheme.

Prescribed payments and taxation

3. A payment by a registered pension scheme to or in respect of a member that is described in Part 2 of these Regulations—
- (a) is a payment of a prescribed description for the purposes of section 164(1)(f) (authorised member payments);
 - (b) if paid to the member, shall be treated as a trivial commutation lump sum paid to the member for the purposes of Part 9 of ITEPA 2003 (pension income)⁽¹⁰⁾; and
 - (c) if not paid to the member, shall be treated as a trivial commutation lump sum death benefit paid to the recipient for the purposes of Part 9 of ITEPA 2003⁽¹¹⁾.
4. A payment by a registered pension scheme that is described in Part 3 of these Regulations, to the extent specified in the regulation concerned—
- (a) is a payment of a prescribed description for the purposes of section 164(1)(f) of the Finance Act 2004;
 - (b) shall be treated as pension paid to the recipient under a registered pension scheme for the purposes of Part 9 of ITEPA 2003; and
 - (c) shall be treated for those purposes as pension accruing in the tax year in which it is paid.
5. A payment by a registered pension scheme that is described in Part 4 of these Regulations—
- (a) is a payment of a prescribed description for the purposes of section 164(1)(f) of the Finance Act 2004; and
 - (b) shall be treated as a pension commencement lump sum paid under a registered pension scheme for the purposes of Part 9 of ITEPA 2003⁽¹²⁾.

(7) Section 150(3) of the Finance Act 2004 defines “public service pension scheme”.

(8) Section 150(6) of the Finance Act 2004 defines “sponsoring employer” in the context of occupational pension schemes.

(9) Section 169 of the Finance Act 2004 defines “recognised transfer”.

(10) Section 280(1) of the Finance Act 2004 defines “ITEPA 2003” as meaning the Income Tax (Earnings and Pensions) Act 2003 (c. 1). Section 636B of ITEPA 2003, which makes provision about the taxation as pension income of trivial commutation lump sums, was inserted by paragraph 11 of Schedule 31 to the Finance Act 2004, and was amended by paragraph 59 of Schedule 10 to the Finance Act 2005 (c. 7).

(11) Section 636C of ITEPA 2003, which makes provision about the taxation as pension income of trivial commutation lump sum death benefits, was inserted by paragraph 11 of Schedule 31 to the Finance Act 2004.

(12) Section 636A(1)(a) of ITEPA 2003, which was inserted by paragraph 11 of Schedule 31 to the Finance Act 2004, provides that there is no liability for income tax in respect of a pension commencement lump sum.