STATUTORY INSTRUMENTS

2009 No. 1171

The Registered Pension Schemes (Authorised Payments) Regulations 2009

PART 2

COMMUTATION PAYMENTS

Payment after relevant accretion

6.—(1) A payment made after there has been a relevant accretion in respect of the member if—

(a) the payment extinguishes the member's entitlement to benefits under the pension scheme;

(b) it does not exceed £2,000;

(c) it does not exceed the value of the accretion; and

(d) it is made no later than the relevant date.

(2) Regulation 7 defines "relevant accretion".

(3) In a case where the accretion is a relevant accretion by virtue of having occurred after the event described in regulation 7(2)(b), the scheme pension or annuity concerned shall be ignored in determining whether the member's entitlement to benefits under the scheme has been extinguished.

(4) For the purposes of paragraph (1)(d) the relevant date is—

(a) if the accretion has occurred before 1st December 2009, 1st June 2010, otherwise

(b) six months after the date the accretion occurs.

Meaning of "relevant accretion"

7.—(1) The following are relevant accretions for the purposes of regulation 6 if they occur after either of the events mentioned in paragraph (2)—

(a) a payment ("the payment in") is received by the scheme in respect of the member, other than a contribution into the pension scheme or an excluded transfer into the pension scheme;

(b) there is an allocation to the arrangement([1]) in the amount by which the value of the sums and assets held for the purposes of the arrangement exceeds the value the scheme administrator([2]) had believed they had; and

(c) the scheme administrator becomes aware that the member is entitled to a benefit under the pension scheme, provided—

(i) the scheme administrator had not been aware of the entitlement before the event in paragraph (2), and

(1) Section 152(1) of the Finance Act 2004 defines "arrangement".
(2) Section 270 of the Finance Act 2004 defines "scheme administrator".

(ii) the scheme administator could not reasonably have been expected to be aware of it before that event.

(2) The events are—

(a) there is a recognised transfer to another registered pension scheme or to a qualifying recognised overseas pension scheme(**3**) in respect of the member; and

(b) a scheme pension(**4**) or annuity is purchased for the member by the pension scheme from an insurance company(**5**).

(3) In order for the purchase of a scheme pension or annuity on or after 6th April 2006 to be an event within paragraph (2)(b), all or a part of the member's lifetime allowance(**6**) must be available at the time of the purchase.

(4) The value of a relevant accretion is—

(a) in the case of a payment in within paragraph (1)(a), the amount of the payment; or

(b) in the case of an allocation within paragraph (1)(b), the amount by which the value of the sums and assets exceeds the value they had been believed to have;

(c) in the case described in paragraph (1)(c), the value of the benefit to which the member is entitled.

(5) In paragraph (1)(a), "contribution" does not include any amount mentioned in section 188(3)(c) (rebates and minimum contributions paid by the Board of Inland Revenue(**7**)).

Payments under the Financial Services Compensation Scheme

8.—(1) A payment made by way of compensation under the Financial Services Compensation Scheme if—

(a) the payment does not exceed £2,000; and

(b) it extinguishes the member's entitlement to benefits under the pension scheme.

(2) The reference in paragraph (1) to the Financial Services Compensation Scheme is to the scheme established by Part 15 of the Financial Services and Markets Act 2000(**8**).

Payments to or in respect of members who were untraceable

9.—(1) A payment made to or in respect of a member who has reached the age of 75 if—

(a) at the time the member reached the age of 75 the scheme administrator had been unable to ascertain the member's whereabouts despite having taken reasonable steps to do so;

(b) the scheme administrator had received no communication from the member for at least 5 years before the date on which the scheme administrator had discovered the member's whereabouts or, if the member had died, had learned of the death;

(c) either of the conditions in paragraph (2) is satisfied;

(d) the payment is made no later than the relevant date;

(e) the payment does not exceed £2,000; and

(f) the payment—

(**3**) Section 169 of the Finance Act 2004 defines "qualifying recognised overseas pension scheme".
(**4**) Paragraph 2 of Schedule 28 to the Finance Act 2004 defines "scheme pension".
(**5**) Section 275 of the Finance Act 2004 defines "insurance company".
(**6**) Section 218 of the Finance Act 2004 specifies the amount of the lifetime allowance.
(**7**) The functions of the Board of Inland Revenue mentioned in section 188(3)(c) of the Finance Act 2004 (and other functions) were transferred to officers of Revenue and Customs by section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11).
(**8**) 2000 c. 8. There are amendments, but none is relevant.

(i) extinguishes the member's entitlement to benefits under the pension scheme, or

(ii) if made after the member's death, represents the total value of all sums and assets held for the purposes of the scheme in respect of the member.

(2) The conditions mentioned in paragraph (1)(c) are—

(a) paragraph 8(2) of Schedule 28 (member's unsecured pension fund) applies in relation to the member and the arrangement and none of the sums or assets held for the purposes of the arrangement are member-designated funds(**9**) immediately before it applies;

(b) the arrangement is a defined benefits arrangement(**10**) and no scheme pension is being paid to the member by the scheme making the payment or any related scheme.

(3) For the purposes of paragraph (1)(d) the relevant date is the later of—

(a) 1st June 2010; and

(b) 12 months after the date on which the scheme administrator had discovered the member's whereabouts or, if the member had died, had learned of the death.

Payments to members receiving annuities

10.—(1) A payment to a member which would be a trivial commutation lump sum(**11**) but for the continuance after the payment of an annuity if—

(a) the condition in paragraph (2) is satisfied; or

(b) if the member is not a member of any other registered pension scheme, the conditions in paragraph (3) are satisfied.

(2) The condition mentioned in paragraph (1)(a) is that the payment is made before the end of the commutation period, as determined in accordance with paragraph 7(2) of Schedule 29.

(3) The conditions mentioned in paragraph (1)(b) are that—

(a) the member had not previously received either a trivial commutation lump sum or a payment that was an authorised payment by virtue of this regulation; and

(b) the value of the member's pension rights immediately before the payment, calculated in accordance with paragraph 7(5) of Schedule 29, does not exceed 1% of the standard lifetime allowance(**12**).

De minimis rule for pension schemes

11.—(1) A payment by a public service pension scheme or an occupational pension scheme if—

(a) the member has reached the age of 60, but has not reached the age of 75;

(b) the member—

(i) is not a controlling director of a sponsoring employer of this or of any related scheme, and

(ii) is not a person connected to such a person;

(c) the payment does not exceed £2,000;

(d) the commutation value of the benefits to which the member is entitled under this and any related scheme does not exceed £2,000 in total;

(**9**) Paragraph 8(1A) of Schedule 28 to the Finance Act 2004, which was inserted by paragraph 18 of Schedule 10 to the Finance Act 2005, specifies what sums or assets are member-designated funds.
(**10**) Section 152(6) of the Finance Act 2004 defines "defined benefits arrangement".
(**11**) Paragraph 7 of Schedule 29 to the Finance Act 2004 specifies what sums are trivial commutation lump sums.
(**12**) Section 218 of the Finance Act 2004, in conjunction with S.I. 2007/494, sets the standard lifetime allowance.

(e) the payment extinguishes the member's entitlement to benefits under this scheme; and

(f) no recognised transfer was made out of this or any related scheme in respect of the member during the 3 years preceding the date of the payment.

(2) For the purposes of paragraph (1)(d), the commutation value is equal to the amount of the lump sum that, if paid, would extinguish the member's entitlement to benefits under the scheme concerned.

Payments by larger pension schemes

12.—(1) A payment by a public service pension scheme or an occupational pension scheme if—

(a) there are at least 50 members;

(b) any of conditions A, B or C is satisfied;

(c) the member has reached the age of 60, but has not reached the age of 75;

(d) the member—

(i) is not a controlling director of a sponsoring employer of this or any related scheme, and

(ii) is not a person connected to such a person;

(e) the payment does not exceed £2,000;

(f) the payment extinguishes the member's entitlement to benefits under this scheme;

(g) ignoring any transfer within paragraph (5), no excluded transfer was made into this scheme in relation to the member during the 5 years preceding the date of the payment; and

(h) no recognised transfer was made out of this scheme in respect of the member during the 3 years preceding the date of the payment.

(2) Condition A is that the scheme was in existence on 1st July 2008.

(3) Condition B is that—

(a) the payment is in respect of a defined benefits arrangement; and

(b) the aggregate amount of the sums and assets held for the purposes of defined benefits arrangements is more than half of the aggregate amount of all the sums and assets held for the purposes of this scheme.

(4) Condition C is that in respect of at least 20 members the aggregate amount of the sums and assets held for the purpose of the arrangement exceed £2,000.

(5) A transfer is within this paragraph if it is a transfer of sums and assets described in paragraph 12(8)(b), (c) or (d) of Schedule 36(**13**) (enhanced protection – permitted transfers).

(6) In paragraphs (3) and (4), the "aggregate amount" is an amount equal to the aggregate of the amount of the sums and the market value(**14**) of the assets concerned.

(**13**) Paragraphs (c) and (d) of paragraph 12(8) were inserted by paragraph 17 of Schedule 20 to the Finance Act 2007 (c. 11).
(**14**) Section 278 of the Finance Act 2004 defines "market value".