
STATUTORY INSTRUMENTS

2009 No. 1172

The Taxation of Pension Schemes (Transitional Provisions) (Amendment) Order 2009

Amendment of Taxation of Pension Schemes (Transitional Provisions) Order 2006

3. After article 23 insert—

“Modification of trivial commutation lump sum rules

23A. Part 4 of the 2004 Act shall be modified as set out in articles 23B to 23D.

23B.—(1) For subsection (2)(of section 166 (lump sum rule)(1) substitute—

“(a) in the case of a pension commencement lump sum, either—

(i) immediately before the person becomes entitled to the pension in connection with which it is paid (or, if the person dies before becoming entitled to the pension in connection with which it was anticipated it would be paid, immediately before death), or

(ii) if the person becomes entitled to a trivial commutation lump sum within paragraph 7A of Schedule 29, immediately before becoming so entitled.”.

23C.—(1) Schedule 29 (registered pension schemes: authorised lump sums - supplementary) is modified as follows.

(2) For paragraph (aa) of paragraph 1(1) (pension commencement lump sum)(2) substitute—

“(aa) the member becomes entitled to it either—

(i) in connection with becoming entitled to a relevant pension (or dies after becoming entitled to it, but before becoming entitled to the relevant pension in connection with which it was anticipated that the member would become entitled to it), or

(ii) in connection with a trivial commutation lump sum within paragraph 7A,”.

(3) In paragraph 7(1) (trivial commutation lump sum), after the words “trivial commutation lump sum if” insert “it is a lump sum within paragraph 7A or”.

(4) After paragraph 7 insert—

“7A.—(1) A lump sum is within this paragraph if—

(a) it does not exceed £2,000;

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

(1) Article 1(2) of [S.I. 2006/572](#) provides that a reference to a numbered section or Schedule (without more) is a reference to the section or Schedule bearing that number in Part 4, and that “Part 4” means Part 4 of the Finance Act 2004. Section 166(2)(a) of the Finance Act 2004 was amended by paragraph 9 of Schedule 20 to the Finance Act [2007 \(c. 11\)](#).

(2) Paragraph (aa) of paragraph 1(1) of Schedule 29 was inserted by paragraph 11 of Schedule 20 to the Finance Act 2007.

- (c) it is paid when all or part of the member's lifetime allowance is available;
 - (d) except for any pension to which the member had an actual entitlement on or before 5th April 2006, it extinguishes the member's entitlement to benefits under the pension scheme;
 - (e) the PCLS conditions are satisfied.
- (2) The PCLS conditions are that—
- (a) the lump sum is paid in connection with a pension commencement lump sum ("PCLS");
 - (b) that PCLS would not have been a PCLS had the modifications in paragraph 34 of Schedule 36 not applied;
 - (c) the lump sum is paid no later than one month after the PCLS;
 - (d) since the payment of the PCLS—
 - (i) no contribution in respect of the member has been made into the scheme,
 - (ii) no recognised transfer⁽³⁾ in respect of the member has been made into or out of the scheme, and
 - (iii) no annuity or scheme pension⁽⁴⁾ has been purchased by the application of the sums or assets held by the scheme for the benefit of the member.
- (5) After paragraph 9 insert—
- “9A.** If a lump sum is a trivial commutation lump sum by virtue of its being within paragraph 7A, the member shall be treated as not having any uncrystallised rights under an arrangement under the pension scheme immediately before it was paid.”
- 23D.**—(1) Schedule 36 (pension schemes etc: transitional provisions and savings) is modified as follows.
- (2) For paragraph 31(3) (entitlement to lump sums exceeding 25% of uncrystallised rights) substitute—
- “(3) The pension condition is that either—
- (a) the individual becomes entitled to all the pensions payable to the individual under arrangements under the pension scheme (to which the individual did not have an actual entitlement on or before 5th April 2006) on the same date; or
 - (b) the individual is paid a trivial commutation lump sum within paragraph 7A of Schedule 29.”
- (3) In the sub-paragraph (7A) of paragraph 2 of Schedule 29 that is substituted by paragraph 34(2) (modification of Schedule 29)—
- (a) in the definition of “LS”, for “lump sum” substitute “pension commencement lump sum”; and
 - (b) for the definition of “AC” substitute—

“AC is either—

 - (a) the amount crystallised on the individual becoming entitled to the pension in connection with which the lump sum is paid (see

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

(4) Paragraph 2 of Schedule 28 to the Finance Act 2004 defines “scheme pension”.

section 216) (but this is subject to sub-paragraphs (7AA)(5) and (7B)),
or

- (b) the amount of the trivial commutation lump sum within paragraph 7A of Schedule 29 in connection with which the lump sum is paid, and”.”

(5) The text substituted by paragraph 34(2) of Schedule 36 by way of modification of paragraph 2 of Schedule 29 was amended by paragraph 25 of Schedule 23 to the Finance Act 2006 (c. 25) by the insertion of new sub-paragraph (7AA).