

2013 No. 1117

INCOME TAX

**The Pension Protection Fund (Tax) (Amendment) Regulations
2013**

<i>Made</i> - - - -	<i>8th May 2013</i>
<i>Laid before the House of Commons</i>	<i>9th May 2013</i>
<i>Coming into force</i> - -	<i>31st May 2013</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 102 of the Finance Act 2005(a).

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Tax) (Amendment) Regulations 2013 and come into force on 31st May 2013.

Amendment of the Pension Protection Fund (Tax) Regulations 2006

2. The Pension Protection Fund (Tax) Regulations 2006(b) are amended as follows.

3.—(1) In regulation 2(2) after the definition of “ITEPA 2003” insert—

““P(No. 2)A(NI) 2008” means the Pensions (No. 2) Act (Northern Ireland) 2008(c);

“PA 2008” means the Pensions Act 2008(d);”.

(2) In regulation 2(3) in the definition of “the pension compensation provisions” for paragraphs (a) and (b) substitute—

“(a) in England, Wales and Scotland is to be construed in accordance with section 108 of PA 2008 (interpretation), and

(b) in Northern Ireland is to be construed in accordance with section 87 of P(No. 2)A(NI) 2008 (interpretation);”.

(3) In regulation 2(3) in the definition of “periodic compensation”—

(a) in paragraph (a) after “(pension compensation provisions)” insert “or, as the case may be, Schedule 5 to PA 2008(e) (pension compensation payable on discharge of pension compensation credit)”, and

(a) 2005 c. 7; section 102 was amended by paragraphs 473 and 477 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

(b) S.I. 2006/575.

(c) 2008 c. 13 (N.I.).

(d) 2008 c. 30.

(e) Schedule 5 has been amended by section 20 of and paragraphs 29 to 36 of Schedule 4 to the Pensions Act 2011 (c. 19).

- (b) in paragraph (b) after “(pension compensation provisions)” insert “or, as the case may be, Schedule 4 to P(No. 2)A(NI) 2008(a) (pension compensation payable on discharge of pension compensation credit)”.
- (4) In regulation 2(3) after the definition of “periodic compensation” insert—
- ““PPF money purchase lump sum”—
- (a) in England, Wales and Scotland has the meaning given by regulation 1(2) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 (citation, commencement and interpretation)(b), and
- (b) in Northern Ireland has the meaning given by regulation 1(2) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations (Northern Ireland) 2006 (citation, commencement and interpretation)(c).”.
4. At the end of regulation 5(a) omit “or” and at the end of regulation 5(b) insert—
- “, or
- (c) an individual who receives a PPF money purchase lump sum.”.
5. At the end of regulation 6(2)(a) omit “or” and at the end of regulation 6(2)(b) insert—
- “, or
- (c) receives a PPF money purchase lump sum.”.
6. For regulation 6(3) substitute—
- “(3) An arrangement is specified for the purposes of this paragraph if—
- (a) in relation to an individual falling within paragraph (2)(a) or (b), it is an arrangement under which the individual receives (or, as the case may be, expects to receive)—
- (i) compensation paid under Schedule 7 to the Pensions Act(d) or, as the case may be, Schedule 5 to PA 2008 (pension compensation provisions), or
- (ii) compensation paid under Schedule 6 to the Pensions Order(e) or, as the case may be, Schedule 4 to P(No. 2)A(NI) 2008 (pension compensation provisions), or
- (b) in relation to an individual falling within paragraph (2)(c), it is an arrangement under which the individual receives a PPF money purchase lump sum.”.
7. At the end of regulation 8(b) insert—
- “;
- (c) a payment of a PPF money purchase lump sum.”.
8. For regulation 14(2) substitute—
- “(2) In paragraph (1) a “qualifying individual” means—
- (a) an individual who was a member of a scheme for which the Board of the Pension Protection Fund has assumed responsibility, or
- (b) an individual who was a transferee entitled to a pension compensation credit referred to in section 111(1) of PA 2008 or section 89(1) of P(No. 2)A(NI) 2008 (creation of pension compensation debits and credits).”.

(a) Amendments have been made to Schedule 4 by paragraphs 29 to 36 of Schedule 4 to the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)).

(b) S.I. 2006/580, the definition was inserted by regulation 5(2) of the Pension Protection Fund, Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/627).

(c) S.R. (NI) 2006 No. 155, the definition was inserted by regulation 9(2) of the Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 (S.R. (NI) 2013 No. 95).

(d) 2004 c. 35.

(e) S.I. 2005/255 (N.I. 1).

9. After regulation 23 insert—

“23A. Section 220 of FA 2004(a) (pension credits from previously crystallised rights) applies as if, in relation to the Pension Protection Fund—

- (a) in subsection (4) for “or Article 26(1) of WRP(NI)O 1999(b)” there were substituted “, Article 26(1) of WRP(NI)O 1999, section 111(1) of the Pensions Act 2008 or section 89(1) of the Pensions (No. 2) Act (Northern Ireland) 2008”,
- (b) in subsection (4A)(a) for “or Article 26(2) or (3)(b) of WRP(NI)O 1999” there were substituted “, Article 26(2) or (3)(b) of WRP(NI)O 1999, section 111(2)(a) or (b)(ii) of the Pensions Act 2008 or section 89(2)(a) or (b)(ii) of the Pensions (No. 2) Act (Northern Ireland) 2008”, and
- (c) in subsection (4A)(b) for “or Article 26(3)(a) of WRP(NI)O 1999” there were substituted “, Article 26(3)(a) of WRP(NI)O 1999, section 111(2)(b)(i) of the Pensions Act 2008 or section 89(2)(b)(i) of the Pensions (No. 2) Act (Northern Ireland) 2008”.”.

10. After regulation 28 insert—

“28A. Section 279(1) of FA 2004(c) (other definitions) applies as if, in relation to the Pension Protection Fund—

- (a) “pension credit” included any pension compensation credit mentioned in section 111(1)(b) of PA 2008 or section 89(1)(b) of P(No. 2)A(NI) 2008 (creation of pension compensation debits and credits),
- (b) “pension debit” included any pension compensation debit mentioned in section 111(1)(a) of PA 2008 or section 89(1)(a) of P(No. 2)A(NI) 2008 (creation of pension compensation debits and credits), and
- (c) “pension sharing order or provision” included any pension compensation sharing order or provision mentioned in section 109 of PA 2008 or section 88 of P(No. 2)A(NI) 2008 (activation of pension compensation sharing).”.

11. For regulation 42 substitute—

“42. Unless it is a lump sum falling within any of paragraphs (a) to (c) of regulation 42A, a lump sum paid under any of the following provisions is treated as if it were a lump sum paid under a registered pension scheme to which section 636A of ITEPA 2003(d) (exemption for certain lump sums under registered pension schemes) applies—

- (a) Schedule 7 to the Pensions Act or Schedule 6 to the Pensions Order (pension compensation provisions), or
- (b) Schedule 5 to PA 2008 or Schedule 4 to P(No. 2)A(NI) 2008 (pension compensation provisions).

42A. Each of the following is to be treated as if it were a lump sum, paid to a member under a registered pension scheme, in relation to which section 636B of ITEPA 2003(e) (trivial commutation and winding-up lump sums) applies—

- (a) a PPF money purchase lump sum,

(a) 2004 c. 12; subsection (4) was amended, and subsection (4A) inserted, by paragraph 45 of Schedule 10 to the Finance Act 2005.

(b) S.I. 1999/3147 (N.I. 11).

(c) There are amendments to subsection (1) but they are not relevant to these Regulations.

(d) 2003 c. 1; section 636A was inserted by paragraphs 1 and 11 of Schedule 31 to the Finance Act 2004 and amended by paragraphs 28 and 29(3) of Schedule 19 and Part 3(1) of Schedule 27 to the Finance Act 2007 (c. 11) and Part 1 of Schedule 16 to the Finance Act 2011 (c. 11) and applied by S.I. 2006/569, 2006/572.

(e) Section 636B was inserted by paragraphs 1 and 11 of Schedule 31 to the Finance Act 2004 and amended by paragraph 59 of Schedule 10 to the Finance Act 2005 and applied by S.I. 2006/572.

- (b) a lump sum under paragraph 24 of Schedule 7 to the Pensions Act or paragraph 24 of Schedule 6 to the Pensions Order (commutation of periodic compensation), where the portion of periodic compensation commuted exceeds 25%, and
- (c) a lump sum under paragraph 9 of Schedule 5 to PA 2008 or paragraph 9 of Schedule 4 to P(No. 2)A(NI) 2008 (commutation of periodic compensation), where the portion of periodic compensation commuted exceeds 25%.”.

*Mark Lancaster
Desmond Swayne*

8th May 2013

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of the Pensions Act 2004 (c. 35) established the Pension Protection Fund (“PPF”). The Pension Protection Fund (Tax) Regulations 2006 (S.I. 2006/575) (“the 2006 Regulations”) apply the Tax Acts to PPF with modifications to ensure the tax treatment of pension compensation paid by PPF is the same tax treatment as of a pension or lump sum paid by a registered pension scheme.

Changes have been made to the PPF regime by the Pension Protection Fund, Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/627) and the Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 (S.R. (NI) 2013 No. 95), in particular, in relation to the discharge of PPF money purchase lump sums.

These Regulations align the tax treatment of PPF money purchase lump sum payments and of pension compensation paid by PPF that is shared upon divorce, dissolution or annulment of a marriage or civil partnership, to the treatment of a lump sum paid by a registered pension scheme in similar circumstances.

Part 3 of the Pensions Act 2008 (c. 30) and Part 3 of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)) provide for pension compensation paid by PPF to be shared upon divorce etc by making a pension compensation order or provision, or by creating a pension compensation debit or credit.

Regulation 3(2) substitutes a new definition of “pension compensation provisions” in regulation 2(3) of the 2006 Regulations to include PPF compensation.

Regulation 3(3) extends the definition of “periodic compensation” in regulation 2(3) of the 2006 Regulations to include compensation payable on the discharge of a pension compensation credit.

Regulation 3(4) defines a “PPF money purchase lump sum”.

Part 4 of the Finance Act 2004 (c. 12) (“FA 2004”) provides for the taxation of pension schemes defined by section 150 as a scheme or other arrangements to provide specified benefits. Section 152 defines “an arrangement” as an arrangement relating to a pension scheme member.

Regulation 5 of the 2006 Regulations modifies the definition of “member” in section 151 of FA 2004. Regulation 4 amends that regulation to provide that an individual who receives a PPF money purchase lump sum is also a member.

Regulation 6(2) of the 2006 Regulations modifies the definition of “arrangement” in section 152 of FA 2004 to include individuals in receipt of compensation from PPF. Regulation 5 amends that regulation to include an individual who has received a PPF money purchase lump sum.

Regulation 6(3) of the 2006 Regulations modifies the definition of “arrangement” in section 152 of FA 2004 to cover the receipt of PPF compensation. Regulation 6 changes the modification to the definition of “arrangements” in that regulation to include arrangements under which an

individual receives or expects to receive compensation payable on the discharge of a pension compensation credit or receives a PPF money purchase lump sum.

Regulation 7 inserts new paragraph (c) into regulation 8 of the 2006 Regulations so that payments of PPF money purchase lump sums will be treated as authorised member payments for the purposes of Part 4 of FA 2004.

Regulation 14 of the 2006 Regulations applies section 168 of and Part 2 of Schedule 29 to FA 2004 to the payment of lump sums by PPF to a dependant of a qualifying individual. Regulation 8 substitutes a new definition of “qualifying individual” in regulation 14 to include an individual who is a transferee entitled to a pension compensation credit.

Section 220 of FA 2004 provides for the lifetime allowance to be increased where a person becomes entitled to a pension credit. Regulation 9 inserts new regulation 23A into the 2006 Regulations to enable a PPF pension compensation credit to be taken into account.

Section 279(1) of FA 2004 defines “pension credit”, “pension debit” and “pension sharing order or provision”. Regulation 10 inserts new regulation 28A into the 2006 Regulations to extend those definitions to cover pension compensation paid by PPF that is shared on divorce and to include pension compensation credits and debits.

Regulation 11 substitutes new regulations 42 and 42A in the 2006 Regulations. These provide that specified lump sums paid by PPF are treated for tax purposes in the same way as lump sums paid by a registered pension scheme to which either section 636A or 636B of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) applies.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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