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STATUTORY INSTRUMENTS

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**2015 No. 80**

**The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015**

**Amendments to section 234**

**15.** In section 234 (defined benefits arrangements)—

(a) in subsection (4)(1), for the words from “where—” to the end substitute—

“where—

PB is—

- (a) if the pension input period is the first pension input period of the arrangement, the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the arrangement if the individual became entitled to payment of it immediately before that pension input period (or is nil if no such annual rate would be so payable), or
- (b) in any other case, the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of the immediately preceding pension input period, and

LSB is—

- (a) if the pension input period is the first pension input period of the arrangement, the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it immediately before that pension input period (or is nil if there is no such lump sum to which the individual would be so entitled), or
- (b) in any other case, the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at the end of the immediately preceding pension input period.”;

(b) for subsection (5B)(2) substitute—

“(5B) The pension input amount in respect of the arrangement is nil where—

- (a) subsection (5BA) or (5BB) applies and the value of the relevant rights of the individual under the arrangement does not increase during the pension input period by more than—
  - (i) the relevant percentage, plus
  - (ii) the relevant statutory increase percentage, or
- (b) subsection (5BC) applies.

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(1) Subsection 4 was amended by paragraph 10 of Schedule 17 to the Finance Act 2011.

(2) Subsections (5B) and (5C) were inserted by paragraph 10 of Schedule 17 to the Finance Act 2011.

- (5BA) This subsection applies where the individual—
- (a) is, throughout the pension input period, a deferred member of the pension scheme that the arrangement is under,
  - (b) is such a deferred member for part of the pension input period and a pensioner member for the rest of it, or
  - (c) would meet the condition in paragraph (a) or (b) if the arrangement were the only arrangement under the pension scheme relating to the individual.
- (5BB) This subsection applies where—
- (a) during the pension input period there is a transfer of all the sums or assets held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under—
    - (i) a registered pension scheme, or
    - (ii) a qualifying recognised overseas pension scheme,in connection with the individual,
  - (b) the individual is a deferred member of the pension scheme that the arrangement is under from the beginning of the pension input period until the transfer (or would be if the arrangement were the only arrangement under the pension scheme relating to that individual), and
  - (c) rights do not accrue under the arrangement to or in respect of the individual during so much of the pension input period as falls after the transfer.
- (5BC) This subsection applies where—
- (a) the arrangement (“the annuity arrangement”) is a defined benefits arrangement under an annuity contract which is treated as a registered pension scheme under section 153(8)(3),
  - (b) throughout the pension input period the annuity arrangement (or a predecessor arrangement) includes provision for the relevant rights of the individual to increase at an annual rate (“the annuity rate”) which—
    - (i) was specified in the contract (or in the rules of a predecessor registered pension scheme) on 14 October 2010, or
    - (ii) is the CPI percentage or the RPI percentage, and
  - (c) the value of the relevant rights of the individual does not increase during the pension input period at an annual rate greater than the annuity rate plus the relevant statutory increase percentage.
- (5BD) In determining for the purposes of this section whether or not a member of a pension scheme is a deferred member (see particularly the definition of “active member” in section 151(2)), arrangements made under the pension scheme for benefits to accrue, as a consequence of (and immediately after) a relevant inward transfer (as defined in section 236(5)) to or in respect of that member, are to be disregarded—
- (a) if condition B in section 236(5A) is met in relation to the accrual of benefits under the arrangements, or
  - (b) so far as the accrual of benefits under the arrangements is to be a subtractable increase in the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the defined benefits arrangement.

- (5BE) In subsection (5BD) “subtractable increase” means an increase which falls to be subtracted from PE or LSE by virtue of section 236(5A)(b).”; and
- (c) in subsection (5C)—
- (i) before the definition of “guaranteed minimum pension” insert—
- ““CPI percentage” means the percentage mentioned in paragraph (c) of the definition of “the relevant percentage” (see below)”;
- (ii) for the definition of “the relevant percentage” substitute —
- ““the relevant percentage” means—
- (a) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate, which is an RPI-related rate, specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 6 April 2012, that rate,
- (b) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate, other than an RPI-related rate, specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 14 October 2010, that rate, and
- (c) in a case not falling within paragraph (a) or (b), the percentage by which the consumer prices index for a month falling within the pension input period and nominated by the scheme administrator is higher than it was for the same month in the previous period of 12 months (or nil per cent if it is not higher);”;
- (iii) after the definition of “the relevant rights of the individual” insert—
- ““the relevant statutory increase percentage” in relation to a pension input period means the percentage increase in the value of the individual’s rights under the arrangement during the pension input period so far as it is attributable solely to one or more of the following—
- (a) an increase in accordance with section 15 of the Pension Schemes Act 1993 or section 11 of the Pension Schemes (Northern Ireland) Act 1993 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed);
- (b) a revaluation in accordance with section 16 of the Pension Schemes Act 1993 or section 12 of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of earning factors);
- (c) a revaluation in accordance with Chapter 2 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of accrued benefits);
- (d) a revaluation in accordance with Chapter 3 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: protection of increases in guaranteed minimum pensions);
- (e) the application of section 67 of the Equality Act 2010 (sex equality rule for occupational pension schemes);
- “RPI percentage” means the percentage by which the retail prices index for a month falling within the pension input period and nominated by the scheme administrator is higher than it was for the same month in the previous period of 12 months (or nil per cent if it is not higher);

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“RPI-related rate” (in the definition of “the relevant percentage”) means—

- (a) a rate produced solely by movement in the retail prices index, or
- (b) a rate which (however expressed) is the lower of such a rate and a percentage figure;”.