
STATUTORY INSTRUMENTS

2015 No. 80

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

Amendments to section 236

16. In section 236 (defined benefits arrangements: adjustments of closing value)—

- (a) in subsection (4)(1)—
 - (i) for the words from “If” to “by reason of” substitute “In subsection (4A) “relevant outward transfer means”; and
 - (ii) omit “the amount of the reduction is to be added to PE or LSE”;
- (b) after subsection (4) insert—

“(4A) If there is a relevant outward transfer during the pension input period, then—

- (a) if condition A is met, and there has been a reduction in the annual rate of the pension or a reduction in the amount of the lump sum to which the individual would be entitled under the arrangement, as a consequence (whether direct or indirect) of the relevant outward transfer, the amount of that reduction is to be added to PE or LSE, so far as that amount is reflected in the reduction in the value of benefits mentioned in paragraph (b) of condition A;
- (b) if condition A is not met but the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by reason of the relevant outward transfer, the amount of that reduction is to be added to PE or LSE.

Condition A is that—

- (a) the relevant outward transfer (“the transfer”) takes place within a block transfer,
 - (b) the value of the benefits to be paid to or in respect of the individual under the arrangement has been reduced and the value of the benefits to be paid to or in respect of the individual under the pension scheme mentioned in subsection (4) has been increased, as a consequence (whether direct or indirect) of the transfer,
 - (c) the amount of that reduction is equal (or virtually equal) to the amount of that increase, and
 - (d) the transfer is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.”;
- (c) in subsection (5)—
 - (i) for the words from “If” to “by reason of” substitute “In subsection (5A) “relevant inward transfer means”; and
 - (ii) omit “the amount of the increase is to be subtracted from PE or LSE”;
 - (d) after subsection (5) insert—

- “(5A) If there is a relevant inward transfer during the pension input period, then—
- (a) if condition B is met, and there has been an increase in the annual rate of the pension or an increase in the amount of the lump sum to which the individual would be entitled under the arrangement, as a consequence (whether direct or indirect) of the relevant inward transfer, the amount of that increase is to be subtracted from PE or LSE, so far as that amount is reflected in the increase in the value of benefits mentioned in paragraph (b) of condition B;
 - (b) if condition B is not met but the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been increased by reason of the relevant inward transfer, the amount of that increase is to be subtracted from PE or LSE.

Condition B is that-

- (a) the relevant inward transfer (“the transfer”) took place within a block transfer,
- (b) the value of the benefits to be paid to or in respect of the individual under the arrangement has been increased, and the value of the benefits to be paid to or in respect of the individual under the pension scheme mentioned in subsection (5) has been reduced, as a consequence (whether direct or indirect) of the transfer,
- (c) the amount of that increase in value is equal (or virtually equal) to the amount of that reduction, and
- (d) the transfer is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.

(5B) For the purposes of Condition A in subsection (4A) and Condition B in subsection (5A)—

- (a) normal actuarial practice must be used when determining and comparing the amount of a reduction, and the amount of an increase, in the value of benefits to be paid to or in respect of the individual,
- (b) the amount of a reduction or increase in the value of benefits to be paid to or in respect of the individual under the arrangement is the difference between the value of those benefits under that arrangement immediately before the transfer and immediately after the transfer, and
- (c) the amount of an increase or reduction in the value of benefits to be paid to or in respect of an individual under a pension scheme is the difference between the value of those benefits under that pension scheme immediately before and immediately after the transfer.

(5C) In subsections (4A) and (5A)—

“block transfer” means a transfer which involves the transfer in a single transaction of all the sums or assets held for the purposes of, or representing accrued rights under, the arrangements under a pension scheme which relate to the individual and at least one other member of that pension scheme so as to become held for the purposes of, or to represent rights under, any pension scheme.”;

(e) after subsection (5C) (as inserted by sub-paragraph (d)) insert—

“(5D) For the purposes of subsections (4A) and (5A), the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced or increased, as the case may be, “by reason of” a transfer of sums or assets only where that reduction or increase is solely attributable to the value of those sums or assets.”; and

(f) in subsection (8D) for “in a case where” to the end substitute—

“in a case where—

- (a) the individual becomes actually entitled to all of the individual’s benefits under the pension scheme or benefit crystallisation event 5, 5A or 5B occurs in relation to the individual and the pension scheme, and
- (b) the adjustment takes place after the individual becomes so entitled or the benefit crystallisation event occurs.”.