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STATUTORY INSTRUMENTS

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**2006 No. 1962**

**INCOME TAX**

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

<i>Made</i>	- - - -	<i>20th July 2006</i>
<i>Laid before the House of Commons</i>	- - - -	<i>21st July 2006</i>
<i>Coming into force</i>	- -	<i>11th August 2006</i>

The Treasury make the following Order in exercise of the powers conferred on them by section 283(2), (3A), (3B) and (3C) of the Finance Act 2004<sup>(1)</sup>.

**Citation, commencement and effect**

1. This Order may be cited as the Taxation of Pension Schemes (Transitional Provisions) (Amendment) Order 2006, shall come into force on 11th August 2006 and have effect in respect of—

- (a) death benefit lump sum payments made, and
- (b) benefit crystallisation events taking place,

on or after 6<sup>th</sup> April 2006.

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

2.—(1) The Taxation of Pension Schemes (Transitional Provisions) Order 2006<sup>(2)</sup> is amended as follows.

3. After article 29 insert—

**“Member’s unsecured pension funds – further provisions**

**29A.**—(1) In the case of an individual who meets the conditions set out in paragraph (2), paragraph (3) applies.

(2) The conditions are as follows.

*Condition A*

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(1) 2004 c. 12. This section was amended by paragraph 35 of Schedule 23 to the Finance Act 2006 (c. 25).  
(2) S.I. 2006/572.

The individual is a member of a scheme which falls within paragraph 1(1) of Schedule 36.

*Condition B*

The individual was, on 5<sup>th</sup> April 2006, entitled to a pension which was not provided under a defined benefits arrangement and which—

- (a) took the form of income drawdown under a retirement benefits scheme approved for the purposes of Chapter 1 of Part 14 of ICTA; or
- (b) was paid from the resources of—
  - (i) a small self-administered scheme as defined in the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-Administered Schemes) Regulations 1991(3), or
  - (ii) a small self-administered scheme that had been approved under section 590 of ICTA,

the rules of which, on 5<sup>th</sup> April 2006, did not require the purchase of an annuity in respect of the individual; or

- (c) took the form of income withdrawal under a personal pension scheme approved under Chapter 4 of Part 14 of ICTA pursuant to section 634A(4) of that Act.

(3) In section 216 (benefit crystallisation events and amounts crystallised) in benefit crystallisation event 5A(5), in column 1 of the table, after the words “available for the payment of unsecured pension to the individual” add—

“except to the extent that, the sums and assets in the money purchase arrangement are sums or assets deemed to represent an arrangement pursuant to paragraph 8(1A) (a) to (c) of Schedule 28 as modified by article 29 of the Taxation of Pension Schemes (Transitional Provisions) Order 2006(6)

4. In article 40(1)—

- (a) in sub-paragraph (b), for “the member’s death” substitute—
 

“the date upon which the administrator of the pension scheme could reasonably have known of the member’s death”; and
- (b) in sub-paragraph (e), for the words from “given” to the end of the sub-paragraph, substitute “led to the Commissioners withdrawing the approval of the scheme.”.

5. In article 41(1)—

- (a) in sub-paragraph (c), for “the dependant’s death” substitute—
 

“the date upon which the administrator of the pension scheme could reasonably have known of the dependant’s death”; and
- (b) in sub-paragraph (e), for the words from “given” to the end of the sub-paragraph, substitute “led to the Commissioners withdrawing the approval of the scheme.”.

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(3) S.I. 1991/1614. The definition of such a scheme was substituted by regulation 3 (b) of S.I. 1998/728.

(4) Section 634A was inserted by paragraph 4 of Schedule 11 to the Finance Act 1995, amended by paragraphs 12(2) and 18(8) and (9) of Schedule 10 to the Finance Act 1999 and paragraphs 10 and 11 of Part 1 of Schedule 13 to the Finance Act 2000, and prospectively repealed by the relevant entry in Part 3 of Schedule 42 to the Finance Act 2004.

(5) This benefit crystallisation event was inserted by paragraph 29 of Schedule 23 to the Finance Act 2006 c. 25.

(6) S.I. 2006/572.

20th July 2006

*Dave Watts*  
*Frank Roy*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This order contains amendments to the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I.2006/572) (“the principal Order”).

Section 283(3C) of the Finance Act 2004 (inserted by paragraph 34 of Schedule 23 to the Finance Act 2006 (c. 25)) provides that an Order under subsection (3A) of that section may have retrospective effect if it does not increase any person’s liability to tax. The provisions of this Order reduce, rather than increase, taxpayers’ liabilities, and accordingly has effect from 6<sup>th</sup> April 2006 (commonly referred to as “A Day”).

Article 1 provides for citation and commencement.

Article 2 introduces the amendments.

Article 3 inserts a new article 29A into the principal Order. The new article modifies section 216 so that benefit crystallisation event 5A (inserted by paragraph 29 of Schedule 23 to the Finance Act 2006 (c. 25)), is not triggered where the individual had a drawdown fund in payment immediately prior to A Day. This new article is necessary because the provisions in the second column of that benefit crystallisation event, preventing overlap with other such events, will not apply appropriately to funds that were in existence before A Day.

Articles 4 and 5 amend articles 40(1)(b) and (e) and 41(1)(c) and (e) of the principal Order respectively. They extend the transitional protection afforded to lump sum death benefits paid by schemes in existence before A Day in respect of members, and dependants of members, who died before that day.

The periods within which a lump sum death benefit can be paid by virtue of article 40(1)(b) and article 41(1)(c) have been extended to two years from the date on which the pension scheme administrator could reasonably have known of the death of the member or dependant concerned, rather than from the date of death, to reflect the fact that scheme administrators do not always learn of the death immediately.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004, as amended by the Finance Act 2005 and the Finance Act 2006 is available on the website of HM Revenue and Customs at [www.hmrc.gov.uk/ria/simplifying-pensions.pdf](http://www.hmrc.gov.uk/ria/simplifying-pensions.pdf) and may be obtained by writing to The Ministerial Correspondence Unit, 1st Floor, HM Revenue and Customs, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.