STATUTORY INSTRUMENTS

2006 No. 499

INCOME TAX

The Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006

Made - - - -	*28th February 2006*
Laid before the House of Commons	*1st March 2006*
Coming into force - -	*6th April 2006*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 169(1B), (1C), (1D) and (1E) of, and paragraphs 2(4)(h) and (6A), 3(2B) and (2C), 6(1B) and (1C), 16(2A) and (2B), 17(3) and (4) and 20(1B) and (1C) of Schedule 28 to, the Finance Act 2004(**a**), and now exercisable by them(**b**), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006 and shall come into force on 6th April 2006.

Interpretation

2. In these Regulations "Part", "section" or "Schedule", without more, means a Part, section or Schedule of the Finance Act 2004.

Scheme pension payable by registered pension scheme - recognised transfers

3.—(1) A transfer within section 169(1) or (1A) (recognised transfer) of sums or assets which represent rights in respect of a scheme pension to which a member of a registered pension scheme has become entitled ("the original scheme pension") is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a scheme pension (a "new scheme pension").

(2) If the sums and assets are so applied, the new scheme pension is to be treated as if it were the original scheme pension for the purposes of Part 4 prescribed in table 1.

Scheme pension payable by insurance company

4. If—

(**a**) 2004 c. 12. Section 169(1A) – (1E), paragraph 2(4)(h) and (6A), 3(2B) and (2C), 6(1B) and (1C), 17(3) and (4) and 20 (1B) and (1C) of Schedule 28 inserted by section 101 of and paragraphs 11, 13 – 16, 36 and 64(1) of Schedule 10 to, the Finance Act 2005 (c. 7).

(**b**) The functions of the Commissioners of Inland Revenue ("the former Commissioners") were transferred to the Commissioners for Her Majesty's Revenue and Customs ("the new Commissioners") by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) provides that, so far as appropriate in consequence of section 5, references to the former Commissioners are to be read as references to the new Commissioners.

(a) a scheme pension payable by an insurance company selected by the scheme administrator of a registered pension scheme ("the original scheme pension") ceases to be payable, and

(b) in consequence of the transfer of sums or assets (or both) from the insurance company to another insurance company in connection with the original scheme pension ceasing to be payable, another scheme pension becomes payable by the other insurance company ("the new scheme pension"),

the new scheme pension is to be treated as if it were the original scheme pension for the purposes of Part 4 prescribed in table 1.

Table 1

Prescribed purposes – scheme pensions

Provision	*Purpose*
Section 216(1), benefit crystallisation event 2 (benefit crystallisation event on becoming entitled to a scheme pension)	To determine whether the individual has become entitled to a scheme pension by reference to the original scheme pension (to prevent a benefit crystallisation event occurring in relation to the individual becoming entitled to the new scheme pension).
Section 216(1), benefit crystallisation event 3 (benefit crystallisation event on becoming entitled to a scheme pension at an increased rate)	To determine the rate at which the scheme pension was payable on the day on which the individual became entitled to it by reference to the rate payable in relation to the original scheme pension.
Paragraph 2A(3) and (5) of Schedule 28 (unauthorised payments)	To determine— (i) the rate payable when the member became entitled to the pension, and (ii) the amount of any lump sum on which there is no liability to tax to which the member became entitled in conjunction with the pension, by reference to the original scheme pension.
Paragraph 1(1) and (3)(a) of Schedule 29 (pension commencement lump sum)	To determine whether the member has become entitled to a lump sum in connection with the member becoming entitled to the scheme pension by reference to the original scheme pension (to prevent a lump sum to which a member becomes entitled in connection with becoming entitled to the new scheme pension being a pension commencement lump sum).
Paragraph 14(3) of Schedule 29 (pension protection lump sum death benefit)	To determine— (i) the amount crystallised by reason of the member becoming entitled to the pension (AC) by reference to the member becoming entitled to the original scheme pension, (ii) the amount of pension paid (AP) as that paid in respect of the original scheme pension and the new scheme pension in respect of the period between the member becoming entitled to the original scheme pension and the member's death, (iii) the total amount of pension protection lump sum death benefit (TPLS) by reference to that paid in respect of the original scheme pension and the new scheme pension.

Paragraph 16(3) of Schedule 29 (annuity protection lump sum death benefit)	To determine— (i) the amount crystallised by reason of the member becoming entitled to the pension (AC) by reference to the member becoming entitled to the original scheme pension, (ii) the amount of pension paid (AP) as that paid in respect of the original scheme pension and the new scheme pension in respect of the period between the member becoming entitled to the original scheme pension and the member's death, and (iii) the total amount of annuity protection lump sum death benefit (TPLS) by reference to that paid in respect of the original scheme pension and the new scheme pension.

Term and reduction in the rate of scheme pension

5. In a case within regulation 3 or 4 a reduction of the original scheme pension is a prescribed circumstance for the purposes of paragraph 2(4) of Schedule 28 (scheme pension: satisfying conditions) if—

(a) the rate of the pension payable under the new scheme pension on the day on which the member becomes entitled to it is not less than the rate payable under the original scheme pension immediately before the original scheme pension ceased to be payable save to the extent that any reduction reflects the reasonable administration costs of the transfer of sums or assets; and

(b) where the new scheme pension is payable until the later of the member's death and the end of a term certain, that term ends on or before the date on which the term certain under the original scheme pension would have ended.

Lifetime annuity – unauthorised payments and prescribed purposes

6.—(1) In a case within paragraph 3(2B)(a) of Schedule 28 (transfer of sums or assets on cessation of lifetime annuity) where a new lifetime annuity becomes payable, the new lifetime annuity is to be treated as if it were the original lifetime annuity for the purposes of Part 4 prescribed in table 2 to the extent that the amount of the sums and the value of the assets applied to purchase the new lifetime annuity are equal to the amount of the sums and the value of the assets transferred.

(2) In any other case within paragraph 3(2B), the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums and the market value of the assets transferred.

Table 2

Prescribed purposes – lifetime annuities

Provision	*Purpose*
Section 216(1), benefit crystallisation event 4 (benefit crystallisation event on becoming entitled to a lifetime annuity)	To determine whether the individual has become entitled to a lifetime annuity by reference to the original annuity (to prevent a benefit crystallisation event occurring in relation to the individual becoming entitled to the new lifetime annuity).
Paragraph 1(1) and (3)(a) of Schedule 29 (pension commencement lump sum)	To determine whether the member has become entitled to a lump sum in connection with the member becoming entitled to a lifetime annuity by reference to the original annuity (to prevent a lump sum to which a member becomes entitled in connection with becoming entitled to the new lifetime annuity being a pension commencement lump sum).

Paragraph 16(3) of Schedule 29 (annuity protection lump sum death benefit)	To determine— (i) the amount crystallised by reason of the member becoming entitled to the annuity (AC) by reference to the member becoming entitled to the original lifetime annuity, (ii) the amount of pension paid (AP) as that paid in respect of the original lifetime annuity and the new lifetime annuity in respect of the period between the member becoming entitled to the original lifetime annuity and the member's death, (iii) the total amount of annuity protection lump sum death benefit (TPLS) by reference to that paid in respect of the original lifetime annuity and the new lifetime annuity.

Short-term annuity - unauthorised payments

7. In any case within paragraph 6(1B) of Schedule 28 (short-term annuity payable by insurance company ceasing to be payable on transfer of sums or assets) except where a new short-term annuity becomes payable, the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums and the market value of the assets transferred.

Dependants' scheme pension payable by registered pension scheme - recognised transfers

8. A transfer within section 169(1) or (1A) of sums or assets which represent rights in respect of a dependants' scheme pension to which a dependant of a member of a registered pension scheme has become entitled in respect of the member ("the original dependants' scheme pension") is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a dependants' scheme pension (a "new dependants' scheme pension").

Dependants' scheme pension payable by an insurance company - unauthorised payments

9. In any case within paragraph 16(2A) of Schedule 28 (transfer of sums or assets on cessation of payment of a dependants' scheme pension by an insurance company) except where a new dependants' scheme pension becomes payable, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums and the market value of the assets transferred.

Dependants' annuity - unauthorised payments

10. In any case within paragraph 17(3) of Schedule 28 (transfer of sums or assets on cessation of dependants' annuity) except where a new dependants' annuity becomes payable, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums and the market value of the assets transferred.

Dependants' short-term annuity - unauthorised payments

11. In any case within paragraph 20(1B) of Schedule 28 (transfer of sums or assets on cessation of dependants' short-term annuity) except where a new dependant' short-term annuity becomes payable, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums and the market value of the assets transferred.

Unsecured pension fund, alternatively secured pension fund, dependants' unsecured pension fund and dependants' alternatively secured pension fund - recognised transfers and prescribed purposes

12.—(1) A transfer within section 169(1) of sums or assets which represent—

(a) a person’s unsecured pension fund or dependant’s unsecured pension fund, or

(b) a person’s alternatively secured pension fund or dependant’s alternatively secured pension fund,

under an arrangement (“the old arrangement”), is not a recognised transfer unless all of those sums and assets become held under an arrangement under which no other sums or assets are held (“the new arrangement”).

(2) In a case where the sums and assets become so held, the sums and assets transferred are to be treated as remaining sums and assets held under the old arrangement for the purposes prescribed—

(a) in table 3 in the case of an unsecured pension fund,

(b) in table 4 in the case of an alternatively secured pension fund,

(c) in table 5 in the case of a dependant’s unsecured pension fund, and

(d) in table 6 in the case of a dependant’s alternatively secured pension fund.

Table 3

Prescribed purposes – unsecured pension fund

Provision	*Purpose*
Section 216(1), benefit crystallisation event 1 (benefit crystallisation event on designation of sums or assets held as available for payment of unsecured pension to the individual)	To determine whether there has been a designation of sums or assets held as available for payment of unsecured pension to the individual by reference to the designation of sums or assets held under the old arrangement (to prevent a benefit crystallisation event occurring in relation to the sums or assets becoming held under a new arrangement).
Paragraph 9(1)(a) of Schedule 28 (unsecured pension year and basis amount for unsecured pension year)	To determine the unsecured pension year for the purpose of paragraphs 9 and 10 of Schedule 28 by reference to the day on which the member first became entitled to an unsecured pension in respect of the old arrangement.
Paragraph 10(2) and (4)(a) of Schedule 28	To determine, for the reference period in which the transfer is made, the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member’s unsecured pension fund on the nominated date, by reference to the sums and assets held under the old arrangement.
Paragraph 1(1) and (3)(a) of Schedule 29 (pension commencement lump sum)	To determine whether the member has become entitled to a lump sum in connection with the member becoming entitled under an arrangement by reference to the old arrangement (to prevent a lump sum to which a member becomes entitled in connection with becoming entitled under the new arrangement being a pension commencement lump sum).

Table 4

Prescribed purposes – alternatively secured pension fund

Provision	*Purpose*
Paragraph 12(1)(a) of Schedule 28 (alternatively secured pension year and basis amount for alternatively secured pension year)	To determine the alternatively secured pension year for the purpose of paragraphs 12 and 13 of Schedule 28 by reference to the day on which the member first became entitled to an alternatively secured pension in respect of the old arrangement.

Paragraph 13(1) and (2) of Schedule 28	To determine, for the alternatively secured pension year in which the transfer is made, the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member's alternatively secured pension fund, by reference to the sums and assets held under the old arrangement.

Table 5

Prescribed purposes – dependant's unsecured pension fund

Provision	*Purpose*
Paragraph 23(1)(a) of Schedule 28 (unsecured pension year and basis amount for unsecured pension year in relation to dependant's unsecured pension)	To determine the unsecured pension year for the purpose of paragraphs 23 and 24 of Schedule 28 by reference to the day on which the dependant first became entitled to a dependants' unsecured pension in respect of the old arrangement.
Paragraph 24(2) and (4)(a) of Schedule 28	To determine, for the reference period in which the transfer is made, the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's unsecured pension fund on the nominated date, by reference to the sums and assets held under the old arrangement.

Table 6

Prescribed purposes – dependant's alternatively secured pension fund

Provision	*Purpose*
Paragraphs26(1)(a) and 27 of Schedule 28 (alternatively secured pension year and basis amount for alternatively secured pension year in relation to dependant's alternatively secured pension)	To determine the alternatively secured pension year for the purpose of paragraph 26 of Schedule 28 by reference to the day on which the dependant first became entitled to a dependants' alternatively secured pension in respect of the old arrangement.
Paragraph 27(1) and (2) of Schedule 28	To determine, for the alternatively secured pension year in which the transfer is made, the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's alternatively secured pension fund, by reference to the sums and assets held under the old arrangement.

Paul Gray
Mike Hanson

28th February 2006 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the transfer of sums and assets by registered pension schemes and insurance companies under Part 4 of the Finance Act 2004 (c. 12).

Regulation 1 provides for the citation and commencement of the Regulations, and regulation 2 for the interpretation of certain terms used in them.

Regulation 3 makes provision in relation to scheme pensions payable by registered pension schemes and provides that a transfer of sums or assets in respect of a scheme pension ("the original scheme pension") from one registered pension scheme to another where another scheme pension ("the new scheme pension") is provided is a recognised transfer. The new scheme pension is to be treated as the original scheme pension for the purposes prescribed in table 1.

Regulation 4 makes provision in relation to scheme pensions payable by insurance companies and provides for a new scheme pension payable by an insurance company following a transfer of sums or assets to be treated as the original scheme pension for the purposes prescribed in table 1.

Regulation 5 prescribes certain transfers within regulations 3 and 4 for the purposes of paragraph 2(4) of Schedule 28 to the Finance Act 2004 (scheme pension: satisfying conditions) to avoid an unauthorised payments charge on the transfer.

Regulation 6 makes provision in relation to lifetime annuities and provides that where a new lifetime annuity is payable following a transfer of sums or assets it is treated as the original lifetime annuity for the purposes prescribed in table 2, other transfers are treated as unauthorised payments.

Regulation 7 makes provision in relation to short-term annuities and provides that where a short-term annuity ceases to be paid on a transfer of sums and assets the transfer is treated as an unauthorised payment except where a new short-term annuity becomes payable.

Regulation 8 makes provision in relation to dependants' scheme pensions payable by registered pension schemes and provides that a transfer of sums or assets in respect of a dependants' scheme pension from one registered pension scheme to another where another dependants' scheme pension is provided is a recognised transfer.

Regulation 9 makes provision in relation to dependants' scheme pensions payable by insurance companies and provides that where a dependants' scheme pension ceases to be paid on a transfer of sums and assets the transfer is treated as an unauthorised payment except where a new dependants' scheme pension becomes payable.

Regulation 10 makes provision in relation to dependants' annuities and provides that where a dependants' annuity ceases to be paid on a transfer of sums and assets the transfer is treated as an unauthorised payment except where a new dependants' annuity becomes payable.

Regulation 11 makes provision in relation to dependants' short-term annuities and provides that where a dependants' short-term annuity ceases to be paid on a transfer of sums and assets the transfer is treated as an unauthorised payment except where a new dependants' short-term annuity becomes payable.

Regulation 12 makes provision in relation to unsecured pension funds, alternatively secured pension funds, dependants' unsecured pension funds and dependants' alternatively secured pension funds and provides that a transfer of sums and assets from one arrangement to a new arrangement under which no other sums or assets are held is a recognised transfer. The sums and assets transferred are treated as remaining sums and assets held under the old arrangement for the purposes prescribed in tables 3 to 6.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8 April 2004, and is available on the Inland Revenue website at www.inlandrevenue.gov.uk/ria/simplifyingpensions.pdf or obtained by writing to HM Revenue and Customs, Capital & Savings Ministerial Correspondence Unit, 1st Floor, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

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