
STATUTORY INSTRUMENTS

2006 No. 576

**The Social Security (Contributions)
(Amendment No. 2) Regulations 2006**

Amendment of the Social Security (Contributions) Regulations 2001

8.—(1) Part 6 of Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions) is amended as follows.

(2) For paragraph 1 (pension payments and pension contributions to be disregarded) substitute—

“Pension payments and pension contributions disregarded

1. The payments mentioned in paragraphs 2 to 11 are disregarded in the calculation of earnings for the purposes of earnings-related contributions.”.

(3) For paragraphs 2 (personal pension contributions by employers) and 3 (approved schemes etc.)(1) substitute—

“Contributions to, and benefits from, registered pension schemes

2. A payment—

(a) by way of employer’s contribution towards a registered pension scheme to which section 308(1) of ITEPA 2003(2) (exemption of contributions to registered pension scheme) applies;

(b) by way of any benefit pursuant to a registered pension scheme to which—

(i) section 204(1) (authorised pensions and lump sums) of, and Schedule 31 (taxation of benefits under registered pension schemes) to, the Finance Act 2004(3) applies; or

(ii) section 208 or 209 of that Act (unauthorised payments) applies.

Migrant member relief and corresponding relief

3. A payment by way of—

(a) an employer’s contribution to which paragraph 2 of Schedule 33 of the Finance Act 2004 (relief for employers’ contributions) applies;

(b) an employer’s contribution to which article 15(2) of the Taxation of Pension Schemes (Transitional Provisions) Order 2006(4) (employers with pre-commencement entitlement to corresponding relief) applies; or

(c) any benefit referable to a contribution falling within sub-paragraph (a) or (b).”.

(4) In paragraph 5 after “6th April 1998” insert “and before 6th April 2006”.

(1) Paragraph 2 was substituted by regulation 28(4)(a), and paragraph 3 was amended by regulation 28(4)(b), of S.I.2004/770.

(2) 2003 c. 1. Section 308 was substituted by section 201(2) of the Finance Act 2004 (c. 12 : “the 2004 Act”).

(3) 2004 c. 12.

(4) S.I. 2006/572.

(5) Omit paragraph 6.

(6) In paragraph 7 (payments to pension schemes exempt from UK taxation under double taxation agreements)(**5**)—

(a) in sub-paragraph (1)—

(i) after paragraph (b) insert—

“(bb) Article 27(2) of the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Canada) Order 1980(**6**);”;

(ii) after paragraph (d) add—

“(e) Article 17(3) of the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (South Africa) Order 2002(**7**);

(f) Article 17(3) of the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Chile) Order 2003(**8**).”;

(b) omit sub-paragraph (2).

(7) After paragraph 7 add—

“Contributions to, and benefits from, employer-financed retirement benefits schemes

8. A payment by way of—

(a) an employer’s contribution towards an employer-financed retirement benefits scheme; and

(b) benefits, pursuant to an employer-financed retirement benefits scheme, to which paragraph 10 applies.

Here and in paragraph 10 “employer-financed retirement benefits scheme” has the meaning given in section 393A(**9**) of ITEPA 2003.

Contributions to, and pension payments from, employer-financed pension only schemes

9.—(1) A payment by way of—

(a) an employer’s contribution towards an employer-financed pension only scheme; and

(b) a pension, pursuant to an employer-financed pension only scheme, which is income charged to tax pursuant to Part 9 of ITEPA 2003 to which paragraph 10 applies.

(2) In this paragraph “employer-financed pension only scheme” means a scheme—

(a) financed by payments made by or on behalf of the secondary contributor, and

(b) providing only a pension (and which is accordingly not an employer-financed retirement benefits scheme because it does not provide relevant benefits).

Here “relevant benefits” has the meaning given in section 393B of ITEPA 2003(**10**).

(5) Paragraph 7 was amended by regulation 9(3) of S.I. [2005/778](#).

(6) S.I. [1980/709](#). Article 27(7) was inserted by Article 13(3) of Part 1 of the Schedule in S.I. [2003/2619](#).

(7) S.I. [2002/3138](#).

(8) S.I. [2003/3200](#).

(9) Section 393A was substituted for section 393 as originally enacted by section 249(3) of the 2004 Act.

(10) Section 393B was substituted for section 393 as originally enacted by section 249(3) of the 2004 Act.

Payments from employer-financed retirement benefits schemes and employer-financed pension only schemes

10.—(1) This paragraph applies to payments in paragraphs 8(b) and 9(1)(b) which—

- (a) if the scheme had been a registered pension scheme—
 - (i) would have been authorised member payments under any of the provisions of section 164 of the Finance Act 2004 (authorised member payments) listed in sub-paragraph (4); and
 - (ii) would satisfy any of the conditions in sub-paragraph (5); and
- (b) are made after the employment of the employed earner by—
 - (i) the secondary contributor,
 - (ii) a subsidiary of the secondary contributor, or
 - (iii) a person connected with the secondary contributor or a subsidiary of the secondary contributor,has ceased.

For the purposes of this sub-paragraph—

“subsidiary” has the meaning given in section 838 of the Taxes Act 1988⁽¹¹⁾; and an employer is connected with any of the persons with respect to whom he would be a connected person by virtue of section 839 of that Act⁽¹²⁾.

(2) In the following provisions of this paragraph—

- (a) “the Act” means the Finance Act 2004⁽¹³⁾;
- (b) a reference to a numbered section or Schedule (without more) is a reference to the section or Schedule bearing that number in the Act; and
- (b) any reference to a numbered pension rule is to the pension rule contained in section 165 bearing that number.

(3) In applying any provision of the Act for the purposes of this paragraph, a reference to the scheme administrator is to be read as a reference to—

- (a) the responsible person, within the meaning of section 399A of ITEPA 2003⁽¹⁴⁾, in relation to the employer-financed retirement benefits scheme, or
- (b) the person who would be the responsible person if the scheme were an employer-financed retirement benefits scheme.

(4) The provisions referred to in sub-paragraph (1)(a)(i) are—

- (a) section 164(a) (pensions permitted by the pension rules (see section 165)),
- (b) section 164(b) (lump sums permitted by the lump sum rule (see section 166)),
- (c) section 164(e) (payments pursuant to a pension sharing order or provision), and
- (d) section 164(f) (payments of a description prescribed by regulations made by the Commissioners for Revenue and Customs).

(5) The conditions referred to in sub-paragraph (1)(a)(ii) are that, if the scheme had been a registered pension scheme—

- (a) any pension payable under its rules would have satisfied—

⁽¹¹⁾ 1988 c. 1.

⁽¹²⁾ Section 839 was amended by paragraph 20 of Schedule 17 to the Finance Act 1995 and by paragraph 341 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

⁽¹³⁾ 2004 c. 12.

⁽¹⁴⁾ Section 399A was inserted by section 249(11) of the Finance Act 2004.

- (i) pension rules 1 and 3,
 - (ii) pension rule 4 or pension rule 6, and
 - (iii) paragraph 1(1)(e) of Schedule 29;
- (b) in relation to any lump sum payable under its rules, section 166(1)(a) (pension commencement lump sum) and paragraphs 1 to 3 of Schedule 29, as modified by sub-paragraph (6) below, would have been satisfied;
- (c) in relation to any lump sum payable under its rules, section 166(1)(b) (serious ill-health lump sum) and paragraph 4 of Schedule 29, as modified by sub-paragraph (6) below, would have been satisfied; and
- (d) any pension is payable until the member's death in instalments at least annually.
- (6) The amount to be disregarded shall be computed in accordance with Part 1 of Schedule 29 (lump sum rule)(15) as if that Part were modified as follows—
- (a) in paragraph 1 (pension commencement lump sum)—
 - (i) paragraphs (b) and (f) of sub-paragraph (1) were omitted,
 - (ii) for sub-paragraph (2) there were substituted—

“(2) But if a lump sum falling within sub-paragraph (1) exceeds the permitted lump sum, no part of it shall be disregarded.”;
 - (iii) sub-paragraph (4) were omitted; and
 - (iv) for sub-paragraph (5) there were substituted—

“(5) Paragraph 2 defines the permitted lump sum.”;
 - (b) for paragraph 2 there were substituted—

“2. The permitted lump sum is the higher of—

$$\frac{MVF}{4} \text{ and } \frac{LS + (MAP \times 20)}{4}$$

where—

MVF is the market value of the employee's employer-financed retirement benefits scheme fund at the time the benefit is paid to the individual,

LS is the amount of the lump sum, and

MAP is the maximum annual pension which could be paid to the member under the arrangement.”;
 - (c) paragraph 3 were omitted;
 - (d) in paragraph 4, paragraphs (b) and (c) of sub-paragraph (1) and sub-paragraph (2) were omitted.
- (7) No payment by way of benefits shall be disregarded by virtue of this paragraph if they are payable in respect of a period during which an earner is—
- (a) engaged as a self-employed earner under a contract for services with, or
 - (b) re-employed as an employed earner by,
- the secondary contributor from employment with whom the benefits were derived.

Superannuation funds to which section 615(3) of the Taxes Act applies

11. A payment by way of employer's contribution to a superannuation fund to which section 615(3) of the Taxes Act applies, and a payment by way of an annuity paid by such a fund from which income tax is not deducted.”.