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STATUTORY INSTRUMENTS

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**2006 No. 744**

**The Taxation of Pension Schemes (Consequential  
Amendments of Occupational and Personal  
Pension Schemes Legislation) Order 2006**

**PART 2**

Amendment of Subordinate Legislation applicable to Great Britain

**Amendment of the Occupational Pension Schemes (Managers) Regulations 1986**

**2.—(1)** Amend the Occupational Pension Schemes (Managers) Regulations 1986(1) as follows.

(2) In regulation 3(2) (person to be treated as manager of scheme established outside the United Kingdom) for “administrator of” to the end of that regulation substitute “scheme administrator of the scheme for the purposes of section 270 of the Finance Act 2004 (meaning of “scheme administrator”).”.

**Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987**

**3.—(1)** Amend the Personal Pension Schemes (Disclosure of Information) Regulations 1987(3) as follows.

(2) In regulation 2 (schemes to which regulations 3 to 6 do not apply) for “trust scheme which is” to the end of that regulation substitute “trust scheme which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1) (f) of Schedule 36 to that Act.”.

(3) In Schedule 1 (basic information about the scheme) for paragraph 5A(4) substitute—

“**5A.** Whether the scheme is registered under section 153 of the Finance Act 2004.”.

(4) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 1(a) for “section 649(2) of the Income and Corporation Taxes Act 1988” substitute “section 202(3) and (4) of the Finance Act 2004 (minimum contributions under pensions legislation)”; and

(b) in paragraph 2A(3)(b)(5)—

(i) for head (ii) substitute—

“(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004; and”; and

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(1) [S.I. 1986/1718](#), amended by [S.I. 1988/476](#) and [1994/1062](#).

(2) Regulation 3 was inserted by [S.I. 1988/476](#).

(3) [S.I. 1987/1110](#); relevant amending instruments are [S.I. 1988/474](#), [1992/1531](#), [1993/519](#), [1994/1062](#), [1996/776](#) and [1435, 1997/786, 2000/2691, 2001/3649, 2002/1383](#) and [2005/2877](#).

(4) Paragraph 5A was inserted by [S.I. 1988/474](#).

(5) Paragraph 2A was inserted by [S.I. 2002/1383](#) and was amended by [S.I. 2005/2877](#).

- (ii) in head (iii), for “the Commissioners of Inland Revenue” substitute “the Commissioners of Her Majesty’s Revenue and Customs”.

#### **Amendment of the Personal Pension Schemes (Transfer Values) Regulations 1987**

- 4.—(1) Amend the Personal Pension Schemes (Transfer Values) Regulations 1987<sup>(6)</sup> as follows.  
 (2) For regulation 2 (requirements to be satisfied) substitute—

##### **“Requirements to be satisfied**

2.—(1) The prescribed requirements referred to in section 95(3)(a) and (b) of the Act (cash equivalent of member’s rights under a personal pension scheme to be used for acquiring transfer credits or rights under another scheme) are that—

- (a) the receiving scheme—
- (i) is registered under section 153 of the Finance Act 2004 (registration of pension schemes), or
  - (ii) is a qualifying recognised overseas pension scheme as defined in section 169 of that Act (recognised transfers),
- (b) if the member’s cash equivalent (or any portion of it to be used under section 95(3)(a) or (b) of the Act) is or includes the cash equivalent of his protected rights then the receiving scheme is one to which a transfer payment in respect of protected rights may be made in accordance with regulation 2 of the Protected Rights (Transfer Payment) Regulations 1996.

(2) Paragraph (1)(a)(i) shall not apply if the receiving scheme was immediately before the 6th April 2006 approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988<sup>(7)</sup> (retirement annuities), unless the transfer is from a contract or scheme which was immediately before 6th April 2006 approved under Chapter III of Part XIV of that Act.”.

(3) Omit regulation 2A<sup>(8)</sup> (use of cash equivalents for subscribing to self-employed pension arrangements).

#### **Amendment of the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990**

5.—(1) Amend the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990<sup>(9)</sup> as follows.

(2) For regulations 3 and 4 (occupational and personal pension schemes that qualify under section 69 of the Pension Schemes Act 1993) substitute—

##### **“Occupational pension schemes to which section 163 of the Act applies**

3.—(1) An occupational pension scheme is a scheme to which section 163 of the Act (exemption of certain schemes from rule against perpetuities) applies at any time when it satisfies the requirements of any of paragraphs (2) to (6) of this regulation.

(2) This paragraph requires the scheme to be a superannuation fund which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in

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<sup>(6)</sup> 1987/1112, amended by S.I. 1988/474, 1988/1016, 1994/1062 and 1997/786.

<sup>(7)</sup> 1988 c. 1.

<sup>(8)</sup> Regulation 2A was inserted by S.I. 1988/1016.

<sup>(9)</sup> S.I. 1990/1143, amended by S.I. 1994/1062 and 2001/943.

accordance with paragraph 1(1)(b) and (3) of Schedule 36 to that Act (deemed registration of existing schemes).

(3) This paragraph requires the scheme to be a superannuation fund to which section 615(3) of the Taxes Act (exemption from tax in respect of certain pensions) applies, or to which Her Majesty's Revenue and Customs give relief from income tax under section 614(5) of the Taxes Act (exemptions and reliefs in respect of income from certain investments etc. of certain pension schemes).

(4) This paragraph requires the scheme to be a trust scheme which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act.

(5) This paragraph requires the scheme, or part of the scheme, to be either—

(a) an occupational pension scheme which is—

(i) registered under section 153 of the Finance Act 2004, or

(ii) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(a) of Schedule 36 to that Act.

(6) This paragraph requires the scheme to be an occupational pension scheme and Her Majesty's Revenue and Customs to be satisfied under section 153 of the Finance Act 2004, that the scheme corresponds to a scheme registered by Her Majesty's Revenue and Customs for the purposes of Part 4 of that Act.

#### **Personal pension schemes to which section 163 of the Act applies**

4. A personal pension scheme is a scheme to which section 163 of the Act applies at any time when the scheme, or a part of the scheme, is either—

(a) registered under section 153 of the Finance Act 2004; or

(b) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(g) of Schedule 36 to that Act.”.

#### **Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**

6.—(1) Amend the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(10) as follows.

(2) Omit regulation 23 (refunds of additional voluntary contributions).

#### **Amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996**

7.—(1) Amend the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996(11) as follows.

(2) For regulation 5 substitute—

#### **“Conditions upon which appropriate policies of insurance may be commuted**

5.—(1) The requirements referred to in section 32A(2)(c) of the Act (policy of insurance appropriate where commutation conditional on satisfying prescribed requirements) are that the

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(10) S.I. 1991/167, to which there are amendments not relevant to these Regulations.

(11) S.I. 1996/775, to which there are amendments not relevant to these Regulations.

amount secured by the policy of insurance may only be commuted if the amount payable is authorised by section 164 of the Finance Act 2004 (authorised member payments) and satisfies the requirements of paragraph (2) or (3), together with—

- (a) paragraphs (4) to (6) if the lump sum payment qualifies as a pension commencement lump sum; or
- (b) paragraph (7) if the lump sum payment qualifies as a serious ill-health lump sum.

(2) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

- (a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;
- (b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part; or
- (c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part.

(3) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act.

(4) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member's protected rights.

(5) The limit referred to in paragraph (4) must not exceed—

- (a) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 ("the member's benefit crystallisation events"), or
- (b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events,

whichever is the lower.

(6) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(7) Where—

- (a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;
- (b) on the date he qualifies for the payment, the member has a spouse or civil partner; and
- (c) the scheme also provides for the payment of a pension to a member's widow, widower or surviving civil partner,

then this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member's protected rights."

(3) In regulation 6 (certain requirements applying to policies of insurance), in paragraph (1)(b), omit ", not being earlier than the age of 60,".

## **Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996**

**8.**—(1) Amend the Occupational Pension Schemes (Contracting-out) Regulations 1996(12) as follows.

(2) In regulation 1(2) (interpretation)—

(a) in the definition of “administrator”, for “resident” (in the second place where that word appears) to the end of that definition substitute “who is, or the persons who are, appointed in accordance with section 270 of the Finance Act 2004 (meaning of “scheme administrator”);”;

(b) omit the definition of “the Taxes Act”; and

(c) in the appropriate alphabetical place insert—

““relevant statutory scheme” has the same meaning as in paragraph 1(1)(c) of Schedule 36 to the Finance Act 2004 (deemed registration of existing schemes);”.

(3) In regulation 12 (special provision for holding companies and subsidiaries), omit paragraphs (1)(b)(ii), (2)(b)(ii) and (2)(c)(ii).

(4) In regulation 19 (lump sum benefits and salary-related contracted-out schemes) for the words “pension except—” to the end of that regulation, substitute—

“pension except in accordance with—

(a) regulation 20 (payment of lump sum instead of a pension payable under a relevant scheme); or

(b) regulation 60 (payment of a guaranteed minimum pension as a lump sum).”.

(5) For regulation 20 (trivial commutation of benefits derived from section 9(2B) rights) substitute—

### **“Payment of a lump sum instead of a pension payable under a relevant scheme**

**20.**—(1) For the purposes of section 12C(1)(c) of the 1993 Act (regulations may prohibit or restrict the payment of a lump sum instead of a pension under a relevant scheme except in prescribed circumstances or on prescribed conditions), a relevant scheme may not provide for the payment of a lump sum instead of a pension unless the payment to be made is authorised under section 164 of the Finance Act 2004 (authorised member payments) and the payment is permitted either—

(a) by the lump sum rule in section 166 of that Act (lump sum rule) and qualifies as—

(i) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(ii) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;

(iii) a trivial commutation lump sum for the purposes of paragraph 7 of that Part;

(iv) a winding-up lump sum for the purposes of paragraph 10 of that Part; or

(b) by the lump sum death benefit rule in section 168 of that Act (lump sum death benefit rule) and qualifies as—

(i) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

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(12) *S.I. 1996/1172* amended by section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), *S.I. 1997/786*, *1999/3198*, *2000/2975*, *2001/943*, *2002/681*, *2005/706*, *2050* and *3377*; there are other amending instruments but none is relevant.

(ii) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) Where under the scheme—

- (a) an earner qualifies for a lump sum payment on the ground of serious ill-health; and
- (b) the earner’s widow, widower or surviving civil partner qualifies for a pension (“a survivor’s pension”),

the scheme must continue to include provision for a survivor’s pension notwithstanding the payment of a lump sum to the earner.”.

(6) In regulation 21 (payable age in salary related contracted-out schemes) for “which” (in the second place where the word appears) to the end of that regulation substitute “which is permitted under section 164 of the Finance Act 2004 (authorised member payments).”.

(7) In regulation 29 (schemes which cannot be certified under section 9(2B) of the Pension Schemes Act 1993), for paragraph (a) substitute—

- “(a) a scheme which is not registered under section 153 of the Finance Act 2004, unless it is, or was formerly, a relevant statutory scheme.”.

(8) In regulation 40 (schemes which may not be contracted-out under section 9(3) of the Pension Schemes Act 1993) for “an exempt approved scheme” to the end of that regulation substitute “registered under section 153 of the Finance Act 2004.”.

(9) In regulation 48 (special provision for overseas schemes), in paragraph (3) for “for the” to the end of that paragraph substitute “who is appointed in accordance with section 270 of the Finance Act 2004 (meaning of “scheme administrator”).”.

(10) For regulation 60 (trivial commutation of guaranteed minimum pensions), substitute—

**“Payment of a guaranteed minimum pension as a lump sum**

**60.**—(1) For the purposes of section 21(1) of the 1993 Act (payment of a lump sum instead of a pension in prescribed circumstances and subject to prescribed restrictions and conditions) the circumstances are where—

- (a) a guaranteed minimum pension has become payable; and
- (b) the payment of a lump sum is authorised under section 164 of the Finance Act 2004 and the payment is permitted either—
  - (i) by the lump sum rule in section 166 of that Act and qualifies as—
    - (aa) a trivial commutation lump sum for the purposes of paragraph 7 of that Part; or
    - (bb) a winding-up lump sum for the purposes of paragraph 10 of that Part; or
  - (ii) by the lump sum death benefit rule in section 168 of that Act and qualifies as—
    - (aa) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or
    - (bb) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) The condition in paragraph (1)(a) shall not apply in cases where the scheme is being wound up or an earner retires before pensionable age, and a premium under section 55(2) of the 1993 Act (contributions equivalent premium) has been paid or treated as paid under Part VI or the scheme has made the provisions mentioned in section 16(2) and (3) of the 1993 Act, provided that—

- (a) for the purposes of paragraph (1)(b), where the aggregate amount of the benefits which has accrued to the earner at the date of winding-up or, as the case may be, of his retirement, increased—
  - (i) in accordance with section 16(2) and (3) of the 1993 Act, or
  - (ii) in a case where that section 16(2) and (3) applies, to the amount that would have been payable at pensionable age,that aggregate amount shall be treated as the amount of benefits currently payable to him under the scheme;
- (b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme's early retirement provisions;
- (c) in cases where the earner is a member of more than one scheme relating to the same employment, all those schemes are being wound up or, as the case may be, he is treated by all those schemes as having retired and, in each case, all those schemes have paid a contributions equivalent premium or have made the provisions mentioned in section 16(2) and (3) of the 1993 Act.”.

#### **Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996**

**9.**—(1) Amend the Contracting-out (Transfer and Transfer Payment) Regulations 1996(13) as follows.

(2) In regulation 1(2) (interpretation), in the definition of ““connected employer transfer” and “connected employer transfer payment”” in sub-paragraph (b)—

- (a) in head (i) after the word “employers,” insert “or”;
- (b) in head (ii), for “1985, or” substitute “1985;”;
- (c) omit head (iii).

#### **Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

**10.**—(1) Amend the Personal and Occupational Pension Schemes (Protected Rights) Regulations(14) as follows.

(2) In regulation 3(f) (options under section 10(2) and (3) of the Pension Schemes Act 1993 for schemes to designate which rights are protected rights) for “having the meanings” to the end of that paragraph substitute “have the meanings given to them by section 202(3) and (4) of the Finance Act 2004 (minimum contributions under pensions legislation).”.

(3) In regulation 8 (giving effect to protected rights by provision of a lump sum), for paragraph (1) substitute—

“(1) For the purposes of section 28(4) of the 1993 Act (effect may be given to protected rights by the provision of a lump sum but subject to prescribed restrictions), the restrictions are that the payment must be authorised under section 164 of the Finance Act 2004 (authorised member payments) and either paragraph (1A) or (1B) must be satisfied, together with—

- (a) paragraphs (1C) to (1E) if the lump sum payment qualifies as a pension commencement lump sum; or
- (b) paragraph (1F) if the lump sum payment qualifies as a serious ill-health lump sum.

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(13) S.I. 1996/1462; relevant amending instruments are S.I. 1997/786 and 1999/3198.

(14) S.I. 1996/1537; relevant amending instruments are S.I. 1997/786, 2002/681, 2005/704, 2050 and 3164.

(1A) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

- (a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;
- (b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;
- (c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part; or
- (d) a winding-up lump sum for the purposes of paragraph 10 of that Part.

(1B) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as—

- (a) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or
- (b) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(1C) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member's protected rights.

(1D) The limit referred to in paragraph (1C) must not exceed—

- (a) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 ("the member's benefit crystallisation events"), or
- (b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events,

whichever is the lower.

(1E) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(1F) Where—

- (a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;
- (b) on the date he qualifies for the payment, the member has a spouse or civil partner; and
- (c) the scheme also provides for the payment of a pension to a member's widow, widower or surviving civil partner,

this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member's protected rights."

(4) In regulation 10 (choice of insurance company by annuitant), in paragraph (a), in both sub-paragraph (i) and sub-paragraph (ii), omit "if that age is not less than 60 years".

(5) In regulation 12 (death of member before effect given to his protected rights), for paragraph (14), substitute—

"(14) The lump sum referred to in paragraph (3) is one which—

- (a) is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; and



- (b) is paid to the widow, widower or surviving civil partner where—
  - (i) effect is given to all the member’s protected rights by the payment of a lump sum; and
  - (ii) either—
    - (aa) the member, when he died, had no rights under the scheme other than his protected rights; or
    - (bb) effect is given to all those of his rights under the scheme which are not protected rights by the payment of a lump sum.”.
- (6) For regulation 17 (tax-exemption and tax-approval) substitute—

**“Tax registration**

17. For the purposes of section 33 of the 1993 Act (tax requirements to prevail over certification requirements) tax-exemption and tax-approval mean tax registration under section 153 of the Finance Act 2004.”.

**Amendment of the Occupational Pension Schemes (Indexation) Regulations 1996**

11.—(1) Amend the Occupational Pension Schemes (Indexation) Regulations 1996(15) as follows.

(2) In regulation 1(2) (interpretation), in the definition of “pension scheme” for “scheme, a personal pension scheme” to the end of that definition substitute “scheme, or a personal pension scheme registered under section 153 of the Finance Act 2004; and”.

**Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996**

12.—(1) Amend the Occupational Pension Schemes (Transfer Values) Regulations 1996(16) as follows.

- (2) In regulation 12 (requirements to be met by receiving schemes, annuities and arrangements)—
  - (a) for sub-paragraph (d) of paragraph (1) substitute—
    - “(d) if the scheme from which rights are transferred or from which a transfer payment is made is registered under section 153 of the Finance Act 2004, the scheme or personal pension scheme to which rights are transferred or to which a transfer payment in respect of rights is made is registered under that section (except a scheme which was immediately before 6th April 2006 approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988) or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.”;
  - (b) in sub-paragraph (b) of paragraph (2) for “of a kind” to the end of that sub-paragraph substitute “registered under section 153 of the Finance Act 2004, the annuity satisfies requirements of Her Majesty’s Revenue and Customs.”;
  - (c) omit paragraph (3);
  - (d) in paragraph (5)—
    - (i) in sub-paragraph (a), after “arrangement” (where the word first appears) omit “or a self-employed pension arrangement”,
    - (ii) in sub-paragraph (b), omit “it is an overseas arrangement and”, and

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(15) S.I. 1996/1679 as amended by S.I. 2005/704.

(16) S.I. 1996/1847; the relevant amending instrument is S.I. 1997/786.

(iii) in sub-paragraph (c), for “is of a kind described” to the end of that sub-paragraph substitute “is registered under section 153 of the Finance Act 2004 or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.”, and

(e) omit sub-paragraph (a) of paragraph (6).

### **Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997**

**13.**—(1) Amend the Occupational Pension Schemes (Discharge of Liability) Regulations 1997(17) as follows.

(2) In regulation 4 (conditions on which policies of insurance and annuity contracts may be commuted)—

(a) for paragraph (1) substitute—

“(1) The requirements referred to in section 19(4)(c) of the 1993 Act (policy of insurance or annuity contract appropriate where commutation conditional on satisfying prescribed requirements) are that—

(a) the amount secured by the policy of insurance or annuity contract does not exceed the amount for the time being permitted for a lump sum payment by—

(i) the lump sum rule in section 166 of the Finance Act 2004 and qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act; or

(ii) the lump sum death benefit rule in section 168 of that Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

(b) subject to paragraph (2), the earner requests or consents to the amount secured by the policy of insurance or annuity contract being paid as a lump sum and that payment does not exceed the amount for the time being permitted for a lump sum payment by the lump sum rule in section 166 of that Act and qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act.”;

(b) in paragraph (2) omit “the earner’s and”;

(c) in paragraph (3) omit sub-paragraph (a); and

(d) omit paragraph (4).

(3) In regulation 11 (conditions on which liability to provide pensions under a relevant scheme may be discharged), in paragraph (3)(d)(i), omit “has attained the age of 50 and”.

### **Amendment of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997**

**14.**—(1) Amend the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997(18) as follows.

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of “approved scheme”;

(b) in the appropriate alphabetical place, insert—

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(17) S.I. 1997/784; relevant amending instruments are S.I. 1999/3198, 2005/704, 2050 and 3164.

(18) S.I. 1997/785; relevant amending instruments are S.I. 1999/1849, 2002/681, 2005/438, 706 and 2877.

““normal minimum pension age” has the meaning given by section 279(1) of the Finance Act 2004;

“registered scheme” means—

- (a) a scheme registered under section 153 of the Finance Act 2004;
- (b) a scheme which was formerly registered under section 153 of that Act; or
- (c) a scheme which was formerly approved under section 590 or 591 of the Income and Corporation Taxes Act 1988 immediately before 6th April 2006.”.

(3) In regulation 2 (commutation of a pension under an occupational pension scheme)—

(a) for paragraph (1), substitute—

“(1) For the purposes of section 91(5)(c)(ii) and (iii) of the 1995 Act (inalienability of occupational pension does not apply to commutation in prescribed circumstances) the prescribed circumstances are where—

- (a) any amount payable as a lump sum to—
  - (i) the earner is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act; or
  - (ii) the earner’s widow, widower or surviving civil partner is permitted by the lump sum death benefit rule in section 168 of that Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or
- (b) the scheme is being wound up and the aggregate amount of all benefits payable as a lump sum to—
  - (i) the earner is permitted by the lump sum rule in section 166 of that Act and qualifies as a winding-up lump sum for the purposes of paragraph 10 of Part 1 of Schedule 29 to that Act; or
  - (ii) the earner’s widow, widower or surviving civil partner is permitted by the lump sum death benefit rule in section 168 of that Act and qualifies as a winding-up lump sum death benefit for the purposes of paragraph 21 of Part 2 of Schedule 29 to that Act.”.

(b) after paragraph (1A)(19) insert—

“(1B) There are also prescribed for the purposes of—

- (a) section 91(5)(c)(ii) of the 1995 Act the circumstances where the payment of a lump sum to a person is permitted in accordance with any of paragraphs (a) to (e) of the lump sum death benefit rule in section 168 of the Finance Act 2004 (lump sum death benefit rule);
- (b) section 91(5)(c)(iii) of the 1995 Act the circumstances where a person has reached normal minimum pension age but has not retired from the employment of the employer in relation to the scheme, the payment of a lump sum to the person is permitted in accordance with paragraph (a) or (g) of the lump sum rule in section 166 of the Finance Act 2004 (lump sum rule).”;

(c) omit paragraph (2);

(d) in paragraph (3), for “paragraph (1)(a)(ii)”, substitute “paragraph (1)(b)”.

(4) In regulation 8 (exemptions from the inalienability and forfeiture provisions)—

(a) in paragraph (3), for the word “approved” substitute the word “registered”; and

(b) after paragraph (5) add—

“(6) Section 91(1)(a) of the 1995 Act (inalienability of occupational pension) shall not apply to a scheme to the extent that it would prevent the making of any arrangement to effect a surrender of excess rights, at the option of the person in question, for the purposes of paragraph 12 of Schedule 36 to the Finance Act 2004 (pension schemes etc: transitional provisions and savings).”.

#### **Amendment of the Pensions on Divorce etc. (Provision of Information) Regulations 2000**

**15.**—(1) Amend the Pensions on Divorce etc. (Provision of Information) Regulations 2000(**20**) as follows.

(2) In regulation 1(2) (interpretation), in the definition of “retirement annuity contract” for “approved” to the end of that definition substitute “which is to be treated as becoming a registered pension scheme under 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act;”.

#### **Amendment of the Pension Sharing (Valuation) Regulations 2000**

**16.**—(1) Amend the Pension Sharing (Valuation) Regulations 2000(**21**) as follows.

(2) In regulation 1(2) (interpretation), omit the definition of “relevant benefits”.

(3) In regulation 2 (rights under a pension arrangement which are not shareable)—

(a) in paragraph (1)(b), for head (iv) substitute—

“(iv) dependants' income withdrawal within the meaning of paragraph 21 of Schedule 28 to the Finance Act 2004 (dependants' income withdrawal),” and

(b) for paragraph (1)(c) substitute—

“(c) any rights which will result in the payment of a benefit which is to be provided solely by reason of the—

(i) disablement, or

(ii) death,

due to an accident suffered by a person occurring during his pensionable service.”.

#### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000**

**17.**—(1) Amend the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(**22**) as follows.

(2) In regulation 6 (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit), in paragraph (2), for “Part XIV of the Income and Corporation Taxes Act 1988” substitute “Part 4 of the Finance Act 2004 (pension schemes etc)”.

(3) In regulation 8 (unfunded occupational pension schemes other than public service pension schemes)—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for the words “an approved” substitute “a registered”,

(ii) in sub-paragraph (b), for the word “unapproved” substitute “unregistered”, and

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(20) [S.I. 2000/1048](#); relevant amending instruments are [S.I. 2000/2691](#) and [2005/2877](#).

(21) [S.I. 2000/1052](#) the relevant amending instruments are [S.I. 2000/2691](#), [2003/1727](#), [2005/2877](#) and [3377](#).

(22) [S.I. 2000/1053](#); the relevant amending instrument is [S.I. 2000/2691](#) and [2005/2877](#).

- (b) for paragraph (3) substitute—
  - “(3) In this regulation—
    - (a) “registered scheme” means an occupational pension scheme which is registered under section 153 of the Finance Act 2004; and
    - (b) “unregistered scheme” means an occupational pension scheme which is not a registered scheme under section 153 of the Finance Act 2004.”.
- (4) In regulation 15(5) (disqualification as a destination for pension credit – annuity contracts and insurance policies)—
  - (a) in sub-paragraph (a) omit “, and the aggregate of those benefits does not exceed £260 per annum”; and
  - (b) for sub-paragraph (b) substitute—
    - “(b) any lump sum payment—
      - (i) is permitted by the lump sum rule in section 166 of the Finance Act 2004; and
      - (ii) qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act; and”.

#### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

- 18.**—(1) Amend the Pension Sharing (Pension Credit Benefit) Regulations 2000(**23**) as follows.
- (2) In regulation 3 (commutation of the whole of pension credit benefit)—
    - (a) in paragraph (1) omit “paragraphs (3) and (4) and”;
    - (b) for paragraph (2), substitute—
      - “(2) The circumstances described in this paragraph are that the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004, and either—
        - (a) qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act; or
        - (b) qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of that Schedule.”; and
    - (c) omit paragraphs (3) and (4).
  - (3) In regulation 4 (commutation of part of pension credit benefit)—
    - (a) in sub-paragraph (b) of paragraph (1), for “approval or” to the end of that sub-paragraph substitute “the registration or continuing registration of the scheme under section 153 of the Finance Act 2004.”; and
    - (b) omit paragraph (4).
  - (4) In regulation 21 (requirements of other pension arrangements)—
    - (a) in sub-paragraph (c) of paragraph (1), omit “any of sub-paragraphs (a) to (e) of”, and
    - (b) for paragraph (2) substitute—
      - “(2) The kind of scheme mentioned in paragraph (1)(c) is a scheme which is registered under section 153 of the Finance Act 2004.”.

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(23) [S.I. 2000/1054](#), to which there are amendments not relevant to these Regulations.

### **Amendment of the Pension Sharing (Safeguarded Rights) Regulations 2000**

**19.**—(1) Amend the Pension Sharing (Safeguarded Rights) Regulations 2000(24) as follows.

(2) In regulation 9 (ways of giving effect to safeguarded rights - salary related schemes) for paragraph (9) substitute—

“(9) For the purposes of paragraph (7)—

- (a) the benefits secured for a beneficiary suffering from serious ill-health shall become payable only if the payment is permitted by the lump sum rule in section 166 of the Finance Act 2004, and qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act;
- (b) “beneficiary” means a member of a salary related contracted-out scheme, in respect of whose safeguarded rights the trustees or managers of that scheme have discharged their liability by entering into an insurance policy or an annuity contract;
- (c) “incapacity” means physical or mental deterioration which is sufficiently serious to prevent a person from following his normal employment or which seriously impairs his earning capacity.”.

(3) For regulation 10 (payable age in salary related contracted-out schemes) substitute—

#### **“Payable age in salary related contracted-out schemes**

**10.** In respect of pension credit benefit arising out of safeguarded rights, schemes must provide for pension credit benefit to be paid by reference to an age which is equal for men and women and which, in the case of a scheme which is registered under section 153 of the Finance Act 2004, is permitted under the rules of that scheme in accordance with that registration.”.

### **Amendment of the Stakeholder Pension Schemes Regulations 2000**

**20.**—(1) Amend the Stakeholder Pension Schemes Regulations 2000(25) as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) In paragraph (3)—

(i) in the definition of “pension arrangement” for paragraph (c) substitute—

“(c) a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004;” and

(ii) for the definition of “tax relief” substitute—

““tax relief” has the meaning given by Chapter 4 of Part 4 of the Finance Act 2004 (registered pension schemes: tax reliefs and exemptions);” and

(b) in paragraph (6), for ““tax-exemption”“ to the end of that paragraph substitute ““tax-registration” and “tax-registered” mean registration or, as the case may be, registered under section 153 of the Finance Act 2004.”.

(3) In regulation 3 (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes), in paragraphs (5A)(26) and (5B)(27), for “has tax-exemption or tax-approval” in both places substitute “maintains its tax-registration”.

(4) In sub-paragraph (b) of regulation 6(4) (procedure for discharging rights on winding-up)—

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(24) S.I. 2000/1055; relevant amending instruments are S.I. 2000/2691 and 2005/2877.

(25) S.I. 2000/1403 as amended by S.I. 2001/104, 2001/934, 2001/3649, 2002/1383, 2002/1555, 2002/2098 and 2005/577.

(26) Paragraph 5A was inserted by S.I. 2001/104 and amended by S.I. 2001/934.

(27) Paragraph 5B was inserted by S.I. 2001/934.

- (a) for “tax-approval or tax-exemption” substitute “tax-registration”, and
  - (b) for “approval or exemption” substitute “registration”.
- (5) In regulation 17 (restrictions on contributions)—
- (a) in paragraph (3), for “section 639” to “(tax reliefs: member’s contributions)” substitute “section 192 of the Finance Act 2004 (relief at source)”;
  - (b) in paragraph (4) for “tax-exemption” to the end of that paragraph substitute “tax-registration”; and
  - (c) after paragraph (4) insert—
    - “(4A) the trustees or manager of a stakeholder pension scheme may refuse to accept any contribution by, or on behalf of any member of the scheme who—
      - (a) has not given the declaration specified in regulation 5(2) of the Registered Pension Schemes (Relief at Source) Regulations 2005<sup>(28)</sup> (declaration of entitlement to tax relief in respect of net contributions); or
      - (b) is not a relevant UK individual for the purposes of section 189 of the Finance Act 2004 (relevant UK individual) for the tax year in respect of which the contribution is made.”.
- (6) In regulation 18 (disclosure of information to members)—
- (a) for sub-paragraph (n) of paragraph (5) substitute—
    - “(n) any amount paid to the member by way of income withdrawal or dependants' income withdrawal as defined in paragraph 7 or, as the case may be, 21 of Schedule 28 to the Finance Act 2004 (income withdrawal or dependants' income withdrawal);”;
  - (b) in sub-paragraph (b) of paragraph (5D)—
    - (i) for head (ii) substitute—
      - “(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004; and”;
    - (ii) in head (iii), for “Commissioners of Inland Revenue” substitute “Commissioners of Her Majesty’s Revenue and Customs”; and
  - (c) for paragraph (10) substitute—
    - “(10) For the purposes of this regulation “member” shall include a dependant making income withdrawals from the scheme in accordance with paragraph 21 of Schedule 28 to the Finance Act 2004.”.
- (7) In regulation 25 (disclosure of information to relevant employees), in paragraph (2)(e)(i) for the “tax-exemption or tax-approval” substitute “tax-registration”.

### **Amendment of the Occupational and Personal Pension Schemes (Bankruptcy) (No. 2) Regulations 2002**

**21.**—(1) Amend the Occupational and Personal Pension Schemes (Bankruptcy) (No. 2) Regulations 2002<sup>(29)</sup> as follows.

- (2) In regulation 1(4) (interpretation)—
  - (a) in sub-paragraph (a)—
    - (i) for the definition of “relevant benefits” substitute—

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<sup>(28)</sup> S.I. 2005/3448.

<sup>(29)</sup> S.I. 2002/836.



““relevant benefits” means any pension, lump sum, gratuity or other like benefit which is, or is to be, provided—

- (a) by reason, or in anticipation, of retirement,
- (b) by reason of death,
- (c) by reason of a pension sharing order or provision,
- (d) in connection with past service,
- (e) after retirement or death,
- (f) in anticipation of, or in connection with, any change in the nature of the service of the employee in question,

but does not include any benefit which is to be provided solely by reason of the disablement or death due to an accident suffered by a person during his pensionable service;”;

(ii) in the appropriate alphabetical place insert—

““the 2003 Act” means the Income Tax (Earnings and Pensions) Act 2003(30);” and

(b) in paragraph (b), in the appropriate alphabetical place insert—

““employer-financed retirement benefits scheme” has the same meaning given by section 393A of the 2003 Act(31) (employer-financed retirement benefits scheme);”.

(3) In regulation 2 (prescribed pension arrangements)—

(a) in paragraph (1)—

(i) in head (i) of sub-paragraph (a), for “foreign emoluments which” to the end of that head substitute “earnings which have been allowed as a deduction under paragraph 51 of Schedule 36 to the Finance Act 2004 (individuals with pre-commencement entitlement to corresponding relief),”;

(ii) for sub-paragraph (b) substitute—

“(b) made with a scheme which is an occupational pension scheme—

- (i) registered under section 153 of the Finance Act 2004, or
- (ii) which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with Part 1 of Schedule 36 to that Act,”;

(iii) for sub-paragraph (c) substitute—

“(c) to which section 308A of the 2003 Act (exemption of contributions to overseas pension scheme) applies;”;

(iv) in sub-paragraph (d), for “section 614, 615 or 616 of the Taxes Act” to the end of that sub-paragraph substitute “section 614 or 615 of the Taxes Act (exemptions and reliefs in respect of income from investments etc of certain pension schemes and other overseas pensions), or section 629, 630 or 643 of the 2003 Act (pre-1973 pensions paid under the Overseas Pensions Act 1973 and Malawi, Trinidad and Tobago and Zambia government pensions),”;

(v) omit sub-paragraph (f),

(b) for paragraph (2) substitute—

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(30) 2003 c. 1.

(31) Section 393A was inserted by the Finance Act 2004.



- “(2) Paragraph (1)(e) above does not apply to any employer-financed retirement benefits scheme arrangement which has been provided to an employee as part of or in addition to any pension arrangement referred to in paragraph (1)(e) above.”; and
- (c) omit sub-paragraphs (a) and (d) of paragraph (3).
- (4) In regulation 3 (unapproved pension arrangements), for paragraph (1) substitute—
- “(1) For the purposes of section 12 of the 1999 Act (effect of bankruptcy on pension rights: unapproved arrangements), a pension arrangement falling within—
- (a) section 157 of the Finance Act 2004 (de-registration);
- (b) paragraphs 52 to 57 of Schedule 36 to that Act; or
- (c) section 393A of the 2003 Act,
- shall be an “unapproved pension arrangement” if it satisfies the conditions specified in paragraph (2) below.”.
- (5) In head (ii) of sub-paragraph (a) of regulation 5(1) (exclusion orders), for “3(1)(a) or (b)” to the end of that head substitute “3(1)(a) above, the date, if later than that referred to in head (i) above, on which any rights of the bankrupt vest in the trustee in bankruptcy on the de-registration of the scheme by Her Majesty’s Revenue and Customs by virtue of section 157 of the Finance Act 2004; or”.
- (6) In sub-paragraph (b) of regulation 6(1) (qualifying agreements), for “3(1)(a) or (b)” to the end of that sub-paragraph substitute “3(1)(a) above, the date, if later than that referred to in sub-paragraph (a) above, on which any rights of the bankrupt vest in the trustee in bankruptcy on the de-registration of the scheme by Her Majesty’s Revenue and Customs by virtue of section 157 of the Finance Act 2004.”.
- (7) In regulation 12 (unapproved pension arrangements), for paragraph (1) substitute—
- “(1) For the purposes of section 12 of the 1999 Act, a pension arrangement falling within—
- (a) section 157 of the Finance Act 2004;
- (b) paragraphs 52 to 57 of Schedule 36 to that Act; or
- (c) section 393A of the 2003 Act,
- shall be an “unapproved pension arrangement” if it satisfies the conditions specified in paragraph (2) below.”.
- (8) In head (ii) of sub-paragraph (a) of regulation 14(1) (exclusion orders), for “12(1)(a) or (b)” to the end of that head substitute “12(1)(a) above, the date, if later than that referred to in head (i) above, on which any rights of the debtor vest in the permanent trustee or judicial factor on the de-registration of the scheme by Her Majesty’s Revenue and Customs by virtue of section 157 of the Finance Act 2004; or”.
- (9) In sub-paragraph (b) of regulation 15(1) (qualifying agreements), for “12(1)(a) or (b)” to the end of that sub-paragraph substitute “12(1)(a) above, the date, if later than that referred to in sub-paragraph (a) above, on which any rights of the debtor vest in the permanent trustee or judicial factor on the de-registration of the scheme by Her Majesty’s Revenue and Customs by virtue of section 157 of the Finance Act 2004.”.