STATUTORY INSTRUMENTS

2009 No. 1171

The Registered Pension Schemes (Authorised Payments) Regulations 2009

PART 4

LUMP SUM ERRORS

Commencement lump sums based on pension errors

17.—(1) A payment of a lump sum the whole of which is intended to represent a pension commencement lump sum(**1**), but which exceeds the permitted maximum(**2**), if—

(a) the lump sum exceeds the permitted maximum only because it has been calculated by reference to the amount of a relevant pension(**3**); and

(b) either—

(i) the payment of the pension is a payment within regulation 13 or 14 (1)(b), or

(ii) paragraph (3) applies.

(2) The discovery that the lump sum exceeds the permitted maximum before the payment is made does not prevent the payment's being within paragraph (1) if the payer took reasonable steps to prevent its being made or its being made in that amount.

(3) This paragraph applies where—

(a) the lump sum is paid before the pension by reference to which its amount was calculated;

(b) the pension is not in the event paid, or paid in the amount originally intended, because an error is discovered; and

(c) if the error had not been discovered and the pension had been paid as intended, its payment would have been a payment within regulation 13.

(4) The member's becoming entitled to the pension commencement lump sum that forms part of the payment within paragraph (1) shall be treated as a benefit crystallisation event for the purposes of the lifetime allowance charge, namely benefit crystallisation event 9 (and this does not prevent the member's becoming so entitled from also having effect for the purposes of benefit crystallisation event 6).

(5) The amount crystallised for the purposes of benefit crystallisation event 9 is the amount by which the lump sum exceeds the permitted maximum.

Commencement lump sums paid in error – money purchase arrangements

18.—(1) A payment of a lump sum the whole of which is intended to represent a pension commencement lump sum, but which exceeds the permitted maximum, if—

(**1**) Paragraph 1 of Schedule 29 to the Finance Act 2004 describes the lump sums that are pension commencement lump sums.
(**2**) Paragraph 2 of Schedule 29 to the Finance Act 2004 defines the permitted maximum.
(**3**) Paragraph 1(3) of Schedule 29 specifies the pensions that are relevant pensions.

(a) the lump sum exceeds the permitted maximum only because it has been calculated by reference to the annuity purchase price(**4**) or the scheme pension purchase price(**5**);

(b) an error in that calculation means that the amount concerned is greater than it would have been; and

(c) paragraph (3) applies.

(2) The discovery that the lump sum exceeds the permitted maximum before the payment is made does not prevent the payment's being within paragraph (1) if the payer took reasonable steps to prevent its being made or its being made in that amount.

(3) This paragraph applies where—

(a) the lump sum is paid before the lifetime annuity or scheme pension is purchased; and

(b) the lifetime annuity or scheme pension is not in the event purchased, or purchased for the amount originally intended, because the error is discovered.

(4) The member's becoming entitled to the pension commencement lump sum that forms part of the payment within paragraph (1) shall be treated as a benefit crystallisation event for the purposes of the lifetime allowance charge, namely benefit crystallisation event 9 (and this does not prevent the member's becoming so entitled from also having effect for the purposes of benefit crystallisation event 6).

(5) The amount crystallised for the purposes of benefit crystallisation event 9 is the amount by which the lump sum exceeds the permitted maximum.

Commencement lump sums paid after death

19.—(1) A payment of a lump sum under the pension scheme to or in respect of a member who has died if—

(a) the payment is in respect of a defined benefits arrangement;

(b) the scheme administrator had not established the member's entitlement to the payment until after the member's death;

(c) the scheme administrator could not reasonably have been expected to make the payment before the member died;

(d) the payment would have been a pension commencement lump sum if it had been made immediately before the member's death and the member had been entitled to it;

(e) it is made no later than the end of the period of one year beginning with the earlier of—

(i) the day on which the scheme administrator first knew of the member's death, and

(ii) the day on which the scheme administrator could first reasonably be expected to have known of it; and

(f) the member was neither—

(i) a controlling director of a sponsoring employer of this or any related scheme, nor

(ii) a person connected to such a person.

(2) The making of the payment shall be treated as a benefit crystallisation event for the purposes of the lifetime allowance charge, namely benefit crystallisation event 9.

(3) The amount crystallised for the purposes of benefit crystallisation event 9 is the amount of the payment.

(**4**) Paragraph 3(4) of Schedule 29 to the Finance Act 2004 defines "the annuity purchase price".

(**5**) Paragraph 3(7B) of Schedule 29 to the Finance Act 2004, which was inserted by paragraph 22 of Schedule 23 to the Finance Act 2006 (c. 25), defines "the scheme pension purchase price".